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**APPENDIX**

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**In the Supreme Court of the United States**

OCTOBER TERM, 1972

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**No. 72-656**

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**ORVAL C. LOGUE, ET AL.,**

*Petitioner,*

**vs.**

**UNITED STATES OF AMERICA,**

*Respondent.*

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**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE FIFTH CIRCUIT**

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**PETITION FOR CERTIORARI FILED OCTOBER 28, 1972  
CERTIORARI GRANTED JANUARY 8, 1973**

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**E. L. MENDENHALL, Inc., 926 Cherry Street, Kansas City, Mo. 64106, 421-3030**

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A. Yes, he had no shirt on at the time.

Q. Upon arrival in the bedroom, what occurred then?

A. Well, he got a shirt and had some discussion there, he wanted to see the warrant right then, [404] and Mr. Bowers didn't have the warrant with him, and he explained that it would be shown to him whenever it arrived from Laredo.

Q. Did you notice anything unusual about his bedroom or the surroundings in the room?

A. Well, it had, he had kinda wildly painted it, you might say, it looked like it was spray can painted, it had been sprayed across the ceiling and had made a "X" across the ceiling, and certain designs on the walls and stuff like that.

Q. Did you notice anything unusual in the room?

A. The odor of airplane glue, airplane-type glue.

Q. Was there a very strong odor?

A. Strong enough that when you walked, whenever you first walked in the room at the door, why—

Q. —Could you smell it when you walked in the front door?

A. No, I didn't notice it when we walked in the front door.

Q. But you did notice it when you walked into Reagan's bedroom, is that correct?

A. Uh-huh, his door was closed whenever we approached his door.

Q. Did you notice anything else in there?

[405] A. There was a brown paper sack sitting on the floor there with nothing in it, that I could tell, anyway.

Q. Did you notice anything unusual about the sack?

A. No, it was just, well, I just noticed it sitting on the floor, in other words, I didn't look straight down the sack.

Q. What happened then?

A. After some discussion about the warrant, Reagan's mother finally convinced him to go with us, and I believe, if I am not mistaken, he was allowed to call his attorney, which at that time, I believe, was Marvin Foster, and he advised him, I think, to go ahead and go with us.

Q. This call was made from the house there, is that correct?

A. Yes, uh-huh.

Q. And then you proceeded to put Reagan in the car, is that correct?

A. Yes, he went with us after, after his mother talked to him, or after the lady there talked to him, I'm not sure whether it was his mother or not, but after the lady there talked to him and his attorney talked to him, he went with us.

Q. There was no struggle, was there?

[406] A. No, just the discussion up until the time we convinced him he was going to have to go with us.

Q. And then did you accompany Deputy Bowers with Reagan to the jail?

A. Yes.

Q. And which jail was that?

A. The Nueces County Jail.

Q. Here in Corpus Christi?

A. Yes.

Q. And did you accompany them to the booking desk?

A. Yes.

Q. What did you do then?

A. Well, Mr. Bowers had him booked as a Federal prisoner, and they took his belongings off of him.

Q. And then what did you do, if anything?

A. Nothing, that was about it, that was about the extent of our involvement in the case there.

Q. You went on back to your customs duties?

A. Yes, uh-huh.

Q. Did you notice any particular odor about the person of Reagan Logue?

A. No, actually we didn't go straight to the jail. We went by the Commissioner's Office and then went up to the jail.

[407] Q. Uh-huh.

A. To the U. S. Commissioner, which is the U. S. Magistrate now, and which is J. C. Martin.

Q. Did you smell glue or a smell of glue around Reagan Logue during this period of—

Mr. De Anda: —Your Honor, the witness has testified he didn't smell anything, and he's leading him, it's obviously a leading question and contrary to what the witness has already testified to.

The Court: Don't lead the witness.

Mr. Pain: I will pass the witness; I have no further questions now.

## CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. May, I know it's been a long time, and it wasn't your arrest to start with, is that right?

A. No, sir.

Q. Actually, as I recall Mr. Bowers testimony, and I refer to it to refresh your recollection, I believe you were, you were, as you say, you were asked to go with him or he asked you to go with him?

[408] A. Yes, sir.

Q. Because you knew where Reagan's house was, at least that was the way I understand his testimony, would that be correct or incorrect?

A. Well, now that you mentioned it, it is familiar, but—

Q. —All right, okay, now after you got to the house, if I remember again, if I remember Mr. Bowers' testimony, he said a young lady, a pretty young lady, I believe he described her as, came to the door first, do you recall?

A. There was a pretty young lady there in the house, and as best I recall, she was pregnant.

Q. All right, I wouldn't figure you fellows would forget that. All right, now after that, afterwards, when Blacki told this young girl why he was there, that then an older lady came to the door, or not, I'm sorry, that then Reagan came to the door and that he was shirtless, he had a pair of levis on, do you remember that?

A. He came to the door before we actually was admitted to the house and he didn't have a shirt on.

Q. All right, and then as I recall again, Mr. Bowers'

investigation of this thing, he asked Reagan if [409] he wanted to put his clothes on, but that he would have to go in the house with him if he wanted to do that, and that Reagan told him he did want to get his clothes on, and so that was the reason that you actually made an entry into the house.

A. Yes, that's the reason for going into the house, was allowing him to get a shirt.

Q. Do you recall Mr. Bowers telling Reagan that, for him to go back and get his clothes, that he would have to accompany him, do you remember that?

A. The way I understood, the way I remember it is, that Reagan wanted the shirt, and in other words, Mr. Bowers informed him he was going to have to come with us, and he wanted to know if he could go back to his bedroom and get a shirt before he left, and Mr. Bowers said, "You can, but we will have to accompany you."

Q. All right, and then, then Reagan told Mr. Bowers to come ahead and you-all went back there to get his clothes?

A. Yes.

Q. All right, now in the room, you have described some rather bizarre paintings on it, was it [410] spray paint?

A. Yes, sir, it appeared to be that type of paint.

Q. It was all over the walls?

A. Yes, sir, across the ceiling.

Q. I think Mr. Bowers said he had never seen a room painted like that before, would that be a fair description of it?

A. I have never seen one painted like that before, either.

Q. It looked like the room was frequently painted, I mean all of the job wasn't done at the same time, it was sprayed—

A. —It was sprayed different colors.

Q. All right, and also didn't you notice some water, or surfboards, surfboards, were there surfboards in there?

A. I don't recall.

Q. Were there cans of paint in there and cans of lacquer?

A. If there was, I didn't see those.

Q. You don't recall seeing them? You have described the smell of glue and could that smell have been paint or lacquer, as well as what you have described it as airplane glue, or are you such an expert at smelling things like that, that you [411] can tell us?

A. I have used several cans of spray paint in my life and I never smelled one in my life that smelled exactly like airplane glue.

Q. How about lacquer?

A. Same thing.

Q. Lacquer has a similar smell?

A. To me, it is different, now I don't know.

Q. All right, okay. You had no problems with Reagan, getting him, other than the inquiries about the warrant, whether or not you had a warrant, there was no particular problem with Reagan Logue, was there?

A. The main problem seemed to be that he wanted to see the warrant right then. He was of the opinion that he had to be shown the warrant before being put under arrest.

Q. Is that a problem, when somebody asks you for a warrant?

A. Well, it is characterized as a problem, it may not be.

Q. Okay, when you got to the jail, do you recall Reagan contending that he was God?

A. He signed the register, the jail receipt, "God", and then they told him that wouldn't be [412] sufficient, the jailer told him it wouldn't be sufficient, and he wrote, "Logue, God Logue."

Q. God Logue?

A. Yes, sir.

Q. All right.

Mr. De Anda: Thank you very much, that's all.

Mr. Pain: I have no further questions.

The Court: You may step down.

(Discussion held off of the record.)

Mr. Pain: Your Honor, may this witness be excused?

The Court: Yes, you may be excused.

The Witness: Thank you.

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WITNESS EXCUSED

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Mr. Bowers: May we, could we withdraw the deposition of Deputy Bowers, please, from the record?

Mr. Pain: Your Honor, at this time point, I will offer the deposition of the witness, Del W. Bowers, Jr., deceased, by [413] way of a deposition taken in Houston, Texas, on October the 22nd, 1970, with Plaintiffs' Counsel, Jim De Anda, being present at such deposition, and I will offer it as part of our evidence in this case after reading it into the record.

The Court: All right.

Mr. De Anda: Your Honor, as we go along, I may have some objections to some portions that he wants to introduce—

The Court: —That's all right, you can make your objection at the time, I assume. Did you take it by agreement?

Mr. De Anda: Yes, sir, and it is not signed, but Mr. Bowers is dead and I have no objections to their reading it.

The Court: Well, there was no reason to make your objections at the time of the taking of the deposition—

Mr. De Anda: —We did agree that we would preserve our objections until the time of trial; however, in view of the fact that Mr. Bowers is deceased, I would not object to the form of the question, I think.

The Court: All right.

[414] DEPOSITION OF DEL W. BOWERS, JR.,

the witness having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

By Mr. Pain:

Q. Will you please state your name, please?

A. (By Mr. Bowers) Del W. Bowers, Jr.

Q. That is Del W.?

A. Yes.

Q. How are you employed?

A. At the present time?

Q. Yes.

A. Deputy Sheriff at Del Rio, Texas, Val Verde County.

Q. How long have you been so employed?

A. Since the 1st of September.

Q. Of 1970?

A. Yes.

Q. And you do live in Del Rio, Texas, now?

A. Right.

Q. How long have you lived there?

A. Since about the middle of August.

Q. Where did you live prior to living in Del Rio?

[415] A. Edinburg, Texas.

Q. How long had you lived there?

A. Since April, 1960.

Q. How were you employed prior to your job as a Deputy Sheriff in Val Verde County?

A. As a Deputy U. S. Marshal.

Q. Where were you stationed?

A. Edinburg.

Q. How long were you a Deputy U. S. Marshal?

A. From December, '62, until June of '70.

Q. What were your duties as a Deputy United States Marshal?

A. I was at Edinburg, Texas, as a U. S. Deputy Marshal.

Q. A U. S. Deputy Marshal for the Southern Judicial District of Texas, is that correct?

A. That is correct.

Q. Who was your immediate supervisor?

A. Gerald L. Jones.

Q. Now where was he stationed during the time he was your immediate supervisor?

A. In Brownsville, Texas.

Q. And who was your supervisor after Deputy Marshal Jones?

A. You mean the—

[416] Q. —The next step up?

A. Casey Slocomb of Houston, Texas, Chief Deputy U. S. Marshal.

Q. Will you describe the duties that you performed as a Deputy U. S. Marshal, generally?

A. Well, a Deputy U. S. Marshal is the law enforcement arm of the Federal Court. Included in our duties, of course, is the keeping of order whenever we are in Court; we also attend Court; serve all Federal processes, summons, complaints, warrants. We also have custody of all Federal prisoners.

Q. In your duties as a U. S. Deputy Marshal, did you have occasion to make arrests?

A. Yes, sir, we do that quite often.

Q. And upon what authority do you ordinarily make arrests?

A. Well, by warrant, bench warrants, warrants of arrest, orders from the Court.

Q. Okay, what is the difference between a warrant and a bench warrant?

A. Well, just a plain warrant is normally issued by the United States Commissioner. The bench warrant is issued by the Court, the Judge.

Q. Is it always necessary for you to have the [417] piece of paper representing the warrant in your hands when you make an arrest?

A. No, it is not.

Q. And have you very often made arrests without the warrant in your possession?

A. Yes, quite often.

Q. Is that part of your ordinary policy and procedure as a Deputy U. S. Marshal?

A. Yes, it is.

Q. Are you generally familiar with the facts of this particular lawsuit?

A. Yes, I think I am.

Q. It is a lawsuit whereby the survivors of Reagan Logue are suing the United States Government for damages for allegedly causing the death of Reagan Logue, is that your understanding?

A. Yes, that is my understanding.

Q. Do you recall the circumstances surrounding the origination of this lawsuit?

A. Yes, sir.

Q. Do you recall making the arrest of Reagan Logue?

A. Yes, sir.

Q. And to the best of your recollection, when was that?

A. May I refer to my report that I have?

[418] Q. Yes, you may.

Mr. Pain: Then I continue—"For the record, I believe Plaintiff's—

Mr. De Anda: —That's irrelevant, why don't you go on unless you just want to read it.

Mr. Pain: No, the next question is—

By Mr. Pain:

Q. When was that time of the arrest that you made of Reagan Logue?

A. Do you want me to relate what happened or the exact time of the arrest?

Q. No, just give me the day, and to the best of your knowledge, the approximate time of the day that you first received information that there was a warrant outstanding for the arrest of Reagan Logue.

A. About 11:00 A.M., I received a telephone call from George Bennett, Deputy Marshal in Laredo.

Q. And what did he tell you?

A. He stated the bench warrant had just been issued for Reagan Logue.

Q. What did you do then?

A. Well, during my conversation with him, he informed me that Logue lived in Corpus.

Q. Where were you at the time you received this [419] telephone call?

A. I was in the U. S. Marshal's Office in Corpus Christi.

Q. But your duty station was ordinarily Edinburg, is that correct?

A. That is true, but I was detailed to Corpus Christi to attend Court, and also to take care of the station while Deputy Marshal Schorre was on prisoner duty.

Q. For purposes of the record, would you spell Deputy Marshal Schorre's last name?

A. (Spelling) S-C-H-O-R-R-E.

Q. And you were temporarily on duty in Corpus Christi, Texas, in your capacity as a Deputy United States Marshal at the time you received this call from Deputy United States Marshal George Bennett, to the effect there was an outstanding warrant for the arrest of Reagan Logue, is that correct?

A. That is correct.

Q. After you received this telephone call, what did you do?

A. I contacted the Customs Agent, Earl Simmons, by telephone.

Q. Why did you do that?

[420] A. Well, I had been informed that they knew his address because of a prior case on Logue from Judge Roberts' Court in Austin.

Q. A prior case Customs had against Logue, that was your information?

A. Yes, and I believe in my conversation with Bennett, I believe he told me that the Customs Agent in Corpus Christi could assist me with Logue's whereabouts.

Q. All right, after you called—

A. —Earl Simmons.

Q. Earl Simmons, what did you do?

A. Well, Simmons told me on the telephone that Agent May and Valverde were familiar with the subject.

Q. Were these Customs Agents?

A. Yes.

Q. All right.

A. And they knew his address and they would assist me.

Q. All right, did they assist you?

A. Yes, they came to the Federal Building and I got in their car, and they took me to 425 Longview.

Q. And—

[421] A.—In Corpus Christi.

Q. And the purpose of this trip that you took in the company of the Customs Agents was to execute the arrest warrant that was outstanding for Reagan Logue, is that correct?

A. That is correct.

Q. All right, you arrived at this address, and what was the address again, please, sir?

A. 425 Longview.

Q. You arrived at that address, then what did you do?

A. Well, to the best of my recollection, I went to the front door, Customs Agents May and Valverde accompanied me.

Q. Did you knock on the door?

A. Yes, I knocked on the door and there was a young girl came to the door. I would say she was probably from sixteen, eighteen, or nineteen years old, she was a pretty young girl.

Q. Did you identify yourself to her?

A. No, I did not. I asked her if Reagan Logue was at home, and I would like to talk to Reagan.

Q. Did she identify herself to you?

A. No, she did not.

Q. What did she say after you inquired about Reagan [422] Logue?

A. She said she would get him, and she went back in the house, shut the door, and just three or four, two or three or four minutes, why a young man came to the door just dressed in levis, no shoes, no shirt.

Q. At the time she shut the door to go get this young man, were you and the two Customs Agents outside?

A. Yes, we were standing outside the front door.

Q. All right, now a young man appeared at the door, is that correct?

A. He came to the front door and came out on the little porch, the foyer in front of the house.

Q. Did you talk to him?

A. Yes, I identified myself, asked him if he was Reagan Logue, and he said he was.

Q. Now at the time you identified yourself, talked to him at this initial meeting, were the Custom Agents, May and Valverde, in hearing distance and in your presence?

A. Yes, they were.

Q. What did you subsequently say to this individual that showed?

A. I told him I had a warrant for his arrest, and [423] that he would have to go with me to the Commissioner's Office and to jail.

Q. Did you ask if he was Reagan Logue?



A. Yes, I asked him when he first came to the door if he was Reagan Logue.

Q. Did he acknowledge that fact?

A. He did.

Q. Then what happened?

A. Well, at this point, after I informed him that I had a warrant for his arrest, he wanted to know what for, and I told him, and then I asked him if he wanted to get shoes and socks and a shirt or any other clothes, and he said that he did. And about this time, I believe there was a lady, another lady came to the door, which I assumed was his mother, or the lady of the house, and I told her—she asked him what was going on, and he told her that I was there to arrest him again, he was being arrested again.

Q. Did he say anything to her at that time?

A. Well, he turned to her and said that, "They have come to arrest me again," and he says, "This is something else besides the case in Austin." And I told him that he would have to either get his folks to bring some clothes outside for him, [424] or if he went inside for the clothes, I would have to accompany him inside. This lady was standing there, she was present, and she said, "Come on in and let's get him dressed."

Q. Did you go in?

A. Yes, I did.

Q. Did the Customs Agents go in?

A. Custom Agent May went in with me.

Q. Valverde stayed outside?

A. Yes.

Q. After you and Custom Agent May went inside the house, what occurred then?

A. Immediately, when I walked in the front door, I smelled a very strange odor. Right at first I thought maybe somebody was painting the house, it smelled like, in other words, a very unusual smell. Later I determined, from my independent determination, from my experience, that it was the smell of glue is what I figured out the smell was.

Q. You came to the conclusion that the smell you smelled upon entering the house was glue?

A. Yes.

Q. Before you go on any further, did you first recall this smell as being glue when you walked [425] into the front door of the house?

A. Well, when I immediately smelled something strange, I recalled the smell of glue, and it was my judgment it was glue.

Q. And this was when you walked in the front door of the house?

A. The very first thing, when I walked in the front door.

Q. Then what happened?

A. As we proceeded on down the hallway and went into a door, which turned out to be his room, and the further we would go down the hall, the smell was much stronger.

Q. This glue smell was much stronger?

A. Yes, it was.

Q. As you went into Reagan Logue's room?

A. Yes.

Q. His bedroom?

A. Yes. It was a very large room as compared to most bedrooms, and had one of these, what kind of paintings—psychodelic stuff all over the walls, different to any room I had ever been in.

Q. Was Reagan Logue present in the room at the time you went in?

A. He was present at all times.

[426] Q. Was Agent May also present?

A. Yes.

Q. Was the older lady also present?

A. I think she stood in the doorway. We had quite a bit of conversation with him. I wanted him to get dressed, and I stated I had a warrant for his arrest, and he said, "What do you mean, a warrant for my arrest?" Of course, I told him I did have, and it took him a little bit to get, to put his socks and shoes on, some four or five minutes.

Q. Did you observe anything in the room other than the psychodelic paintings that was unusual?

A. There was a coffee table, or low table in the room, and laying beside this table was a large paper sack with the top rolled down, and from that point the glue smell was even stronger.

Q. About how long did it take him to get dressed and get ready to go?

A. Well, there was a little conversation at that point. His mother wanted to see the warrant, or this lady, I say she was his mother, this lady there in the house, and I told her I didn't have the warrant in my hands, the warrant was in Laredo. She seemed to think I couldn't [427] arrest him without the paper in my hands, and I assured her I could arrest him, and shortly after that we left the house. He went with me.

Q. Where did you take him after you left the house?

A. We went straight to Commissioner Martin's office.

Mr. De Anda: Your Honor, the next question is—well, you are going to try to get the next question in evidence and I'm going to object to it as hearsay.

Mr. Pain: Yes, I will try.

Mr. De Anda: Well, go ahead and try it.

Mr. Pain: Okay, "What happened there?"

Mr. De Anda: Your Honor, the response to that question is a comment made by Commissioner Martin at the time which is rank hearsay, and is inadmissible, and I think Counsel will concede that it is hearsay, instead of saying what happened there, he answered something that the Commissioner Martin had said, and I think it is—

The Court: —(Looking at instrument) I think it is hearsay.

By Mr. Pain:

[428] Q. Did he conduct a hearing at that time?

A. Yes, he did. I believe that somewhere along about this time, I believe that his mother must have called, or this lady at the house must have called Marvin Foster, the boy's attorney.

Q. The boy's attorney?

A. Yes, I think when we got there, either just before or immediately after we got there, Mr. Foster

called to Mr. Martin that he couldn't be present, but that the boy wouldn't make any statement, or wouldn't even tell his name or anything, which the boy didn't. He wouldn't even give his name, wouldn't even say anything.

Q. Did Commissioner Martin conduct a hearing?

A. Yes.

Q. And found probable cause to bind the boy over?

A. He knew the boy personally; he identified the boy; he knew him.

Q. And how long did this conference with Commissioner Martin take?

A. Probably ten minutes, at the most.

Q. After you had the conference or hearing with Commissioner Martin, what did you do?

A. I took him to the Nueces County Jail.

Q. You say the Nueces County Jail?

[429] A. Yes.

Q. Was Agent May or Valverde present with you at the time you were with Commissioner Martin?

A. They were both present.

Q. Were either one of them present at the time you took the boy from Commissioner Martin's office to the Nueces County Jail?

A. They were. In fact, we were in their car, the Customs Agents' car. They both accompanied me to the jail, to the booking desk.

Q. What did you do after you took the boy to the booking desk at the Nueces County Jail?

A. There was a little conversation at the booking desk. He wouldn't give the officer on duty taking the information down, he wouldn't give him any in-

formation. He said his name was God Logue, wouldn't give his address, age, or anything. But the officer—

Mr. De Anda: —And to the remainder of that answer, he again goes into what the booking officers said, which is again hearsay. I don't object to what Logue said, I think that is probably admissible under the circumstances of this case, but what the booking officer said, that would [430] be irrelevant to any issue, well, it might not be irrelevant, but it would be hearsay.

The Court: Well—

Mr. Pain: —It is hearsay, and we will leave it out.

The Court: It is kinda hard to tell when you don't know what it is, but if you agree it is hearsay, I will accept that.

By Mr. Pain:

Q. Next question is—So someone there at the desk knew Reagan Logue?

A. Yes, he had been in jail before.

Q. What did you do then?

A. I believe I went back to my office and continued with attending Court, I believe.

Q. And you had nothing further to do with this particular lawsuit, or case, or Reagan Logue, for the remainder of that day, is that correct?

A. That is correct.

Q. Now what day was that, that this arrest happened?

A. This was on May the 22nd, 1968.

Q. Now the following day, did you take a trip anywhere?

A. Yes, on May 23rd, 1968, which was the following day, I left Corpus Christi about 9:30 A.M. to [431] transfer prisoners to, I believe I went to Galveston, and then came on in to the Houston Marshal's office in Houston, and didn't return to Corpus Christi until about 8:45 that afternoon.

Q. That was the night of the 23rd of May, 1968?

A. Yes, that's right.

Q. Did you have anything further to do with Reagan Logue for the remainder of that day?

A. Not a thing.

Q. Did you receive any information concerning Reagan Logue on the following day, that is, May the 24th, 1968?

A. Yes, sir.

Q. What was that information?

A. Well, about 8:30 on the 24th, I was informed by telephone, I received a call from Mr. Tom Lowrance, Chief Jailer, that Reagan Logue had tried to commit suicide by inflicting wounds on his left arm on the evening before this.

Q. You received a telephone call from Mr. Lowrance on the 24th that Reagan Logue had attempted to cut himself on the previous day, is that correct?

A. That is correct.

Q. What did you do then, if anything?

[432] Mr. Bowers: I think that is a colloquy between you and Mr. De Anda there, George. He says, "About 8:30 in the morning," and he said 8:30 on the previous page.

By Mr. Pain:

Q. What did you do after receiving that telephone call from Tom Lowrance?

A. Well, he told me where the boy was. He told me he was in the Memorial Hospital. He told me that he had, in fact, I couldn't get hold of the Marshal that afternoon, and he had contacted Howard Vaught, and Mr. Vaught had told him to get hold of Casey Slocomb, Chief Deputy in Houston, which I understand he did. He called him by telephone and he was instructed to put a guard on the prisoner in the hospital, and I would take care of it when I got back. I would take charge when I got back from Houston.

Q. This was about the message you received from Lowrance?

A. Yes, he informed me of all this.

Q. What did you do after that?

A. Well, after I talked to Tom Lowrance, I went to Memorial Hospital to check on Logue's condition.

Q. Did you notice anybody standing guard at the [433] time you went to the hospital at this time, standing guard over Reagan Logue?

A. Yes, we had, there was somebody standing guard, there was a Deputy Sheriff.

Q. Why was that?

A. Well, of course, Tom Lowrance had been instructed to put a guard on the man to begin with by Chief Deputy Slocomb, which is customary. We always have a guard when we have a man in the hospital, we have a guard over him twenty-four hours a day.



Q. Why is that?

A. To insure his safekeeping.

Q. Because he is a prisoner?

A. Yes, that's right.

Q. Because the security of the hospital may not be what the security of a jail is, is that one of the reasons?

A. Well, unless a hospital is specifically equipped to hold a prisoner, yes. Any place I put a prisoner in a hospital, they are definitely required to have a guard.

Q. Do you recall at the time you went to the hospital the first time to see Reagan Logue the identity of the person standing guard at that [434] time?

A. Off-hand, I don't recall.

Q. Do you recall if it was Frank Reyna?

A. I believe it was Frank Reyna.

Q. Do you know Frank Reyna?

A. Yes, he is a Latin boy that works at the jail, one of the jailers.

Q. This is your independent recollection and you could be wrong on that, is that correct?

A. Yes, I'm pretty sure it was Reyna who was there.

Q. All right, when you arrived at the hospital, did you inquire of anyone about anything?

A. Well, when I first arrived, I asked the nurse on the floor what room he was in, and she took me to the room where Logue was located.

Q. Did you inquire of anyone as to what doctor had the care of Logue?

A. I first asked the nurse what his condition was, and that I understood he had inflicted a wound on

his arm, and she told me I should contact Dr. White. He was the physician that treated him before, when he arrived in the emergency room, and she told me Dr. White had gone off duty early in the morning and that he was probably home sleeping. So I asked her if [435] she would contact him by phone, actually get him on the phone, and she said she would, and did.

Q. Was it your understanding at that time that Dr. White was the boy's doctor?

A. Yes, it was.

Q. All right, and then what did you do?

A. Well, I called Dr. White. He seemed to be a little bit irritated because I supposedly woke him up, I don't know whether he was asleep or not.

Q. Before you proceed any further, at the time you called Dr. White, had you seen Reagan Logue in the hospital?

A. Yes, sir, I didn't talk with him. He was laying on the mattress on the floor, but I did not go into his room, and I saw him laying there.

Q. What floor of the hospital was he on, do you recall?

A. I believe the seventh floor.

Q. And you went up there and you saw him before the time you called Dr. White?

A. Yes, I did.

Q. And did you not speak to Reagan Logue?

A. I don't recall that I said anything to him. I [436] believe he was just laying there. I don't know whether he was asleep or what, but he was laying on the mattress.

Q. But at that time you went and made a telephone call to Dr. White, is that correct?

A. That is correct. I didn't make the call, the nurse made the call, and I picked up the phone and started talking to him after she got him on the phone.

Q. When you called Dr. White, did you tell him who you were?

A. Yes, I told him who I was.

Q. What else did you tell him?

A. Well, I asked him his condition, and he told me he had turned the case over to Dr. Gwin, a psychiatrist that I believe his family had contacted. I talked to Dr. White, and told him what my purpose of calling was, to find out why he was still in the hospital, and, of course, at this time he told me, well, he turned the case over to Dr. Gwin, the family had requested Dr. Gwin come in and take charge of the case. And I asked him if his injury, or his wound to his arm was sufficient to keep him in the hospital, if the wound was severe enough to keep [437] him in the hospital, and he informed me it was not. "I have nothing to do," he said, "with the case now, because Dr. Gwin is in charge of the boy now." Well, I think I may have asked him the second time if the wound was sufficient to keep him in, that was the main purpose, to find out about the injury to his arm, and he said it was not sufficient to keep him in the hospital, as far as the wound itself.

Q. Do you recall Dr. White telling you the boy should not be removed from the hospital?

A. I don't remember him saying anything like that. I do remember him saying about the boy's

mental condition, but other than that, him saying that he had a mental problem and that he had turned the case over to Dr. Gwin at the request of his family.

Q. Was that the sum and substance of your conversation?

A. Yes, I didn't talk to him but a short time.

Q. At that point, what was your understanding as to the boy's doctor?

A. That Dr. Gwin was his doctor.

Q. And that was as a result of what Dr. White told you?

[438] A. Yes, I asked the nurse how to get ahold of Dr. Gwin, and she said, "If you will wait, he will be making his rounds in a few minutes."

Q. Did you ask the nurse if Dr. Gwin was the boy's doctor?

A. I believe I did.

Q. Do you recall what her answer was?

A. Yes, she said Dr. Gwin had been to see him and he would be back making his rounds in a very few minutes.

Q. Did you see Dr. Gwin that morning?

A. Yes, I waited and just a short time, I'd say no more than maybe fifteen minutes.

Q. Did you talk to Dr. Gwin?

A. I certainly did.

Q. About Reagan Logue?

A. I did.

Q. Did Dr. Gwin acknowledge Reagan Logue was his patient?

A. Yes, he did. He told me the family had contacted him, and he may have told me he had talked

to Mr. Foster, I'm not sure. But somewhere in there, there was a conversation, I think he mentioned that Mr. Foster was his attorney, had contacted him, or his family had contacted Mr. [439] Foster.

Q. In this personal conversation and conference that you had with Dr. Gwin, where was that, was that in a private room in the hospital?

A. Yes, it was in a small room with a table, kinda of a long table, and Dr. Gwin was in a wheelchair. He had had some injury, he was in a wheelchair. Of course, at that time I didn't know whether he was in a wheelchair at all times or not, because that was the first time I had ever seen him, and I think the last time I ever saw him.

Q. Was anybody else present at this time?

A. Yes, a friend of mine, Mr. Phil Clayton, who at that time I had spent the night with him the night before; he come with me to the hospital.

Q. Where does Mr. Clayton live?

A. He lives in Corpus Christi.

Q. Why did he accompany you on this particular mission?

A. Well, I believe that morning that he and I had had coffee together, and I believe he possibly came to the office with me, and when I went to the hospital, I asked him to ride along with me.

Q. Just a friendly association?

[440] A. Yes.

Q. He had nothing to do with the government?

A. That is correct.

Q. About how long did you have this conference with Dr. Gwin?

A. Oh, I imagine we talked for fifteen or twenty minutes.

Q. And were you talking about Reagan Logue all of that time?

A. Yes.

Q. Was the tenor of your conversation with Dr. Gwin friendly or unfriendly?

A. It was very friendly. He was very nice, he was very cooperative and nice.

Q. To the best of your recollection, there was no disagreement between you two?

A. None whatsoever at all. I think I would have recalled if there had been. I would say it was just the other way, he was very nice and very friendly.

Q. What was it he told you about the boy during this conference?

A. Well, he mentioned something about, I believe the boy's mother, that he had treated the boy's mother, that he had treated the boy's mother, possibly, his true mother, his real [441] mother, and that he had also treated this boy and he knew the history of the family. He knew that the boy was a user of drugs, he said something about marijuana, peyote, LSD, and I think he even acknowledged he knew the boy sniffed glue.

Mr. De Anda: Ask one more.

By Mr. Pain:

Q. Do you recall if anything was mentioned during this conference about the boy's release from the hospital?

A. He said he thought the boy should be, under the circumstances of him being in charge, he should be committed to an institution for rehabilitation.

Q. Did the doctor bring this up at that time?

A. Yes, sir.

Q. Did you say anything in reply to that?

A. I think he asked me the question if, I think, "Don't you have institutions for this purpose?" And I assured him we did have, but it would take a Court Order, and, I believe at this time he said that he would be glad to call the Judge and talk to him. I told him, well, if the boy had an attorney that I thought it would be the best thing for the attorney to contact the [442] U. S. Attorney in Laredo to obtain a Court Order.

Q. Is there anything else that was mentioned during that conference with Dr. Gwin that you can recall right now that you have not mentioned?

A. No, I don't know, or I don't recall anything. We talked quite abit about the boy and about what should be done to him.

Q. After this conference with Dr. Gwin, what did you do?

A. Well, I went back to the Marshal's office in Corpus and called my supervisor, Gerald Jones, in Laredo.

Q. Why did you call him?

A. Well, I wanted to report to him the attempt of the boy to commit suicide, and tell him what I had done, and also to get his advice about getting this boy committed to an institution.

Q. So the purpose of the call was to report the circumstances that had occurred, and to receive possible further instructions, is that right?

A. Yes, I believe about this time Mr. Foster came in the office that day. I was talking to Jerry, and I think that he and I had a conversation about this boy's condition, and what should be [443] done to him, and I believe at that time Mr. Foster talked to Jerry, and I believe that Jerry told him at that time he would talk to the Assistant United States Attorney, Mr. Blask, I believe at that time was in Laredo.

Q. Did you mention anything about guards, the requirements of guards to Deputy Jones?

A. Yes, I did. I think there was something said about having guards at the hospital. Actually in this psycho-ward the doors were locked while I was at the hospital. I went to Logue's room the second time with Dr. Gwin, and during this visit with Dr. Gwin, we went to his room, and I noticed there was not much control of the keys. In other words, somebody would come in and unlock the door and go in the room and leave the door unlocked, and at this point I thought it was very necessary to have a guard there to enforce his safekeeping.

Q. Did you mention something to that effect to Deputy Jones?

A. I did, I mentioned it to Jones that I thought there was loose key control, and I believe that was the words I used to him.

Q. Did you make any recommendations and did he make [444] any suggestions to you?

A. I made recommendations that we keep a guard, and he said, "Well, by all means," to keep a guard there if I thought it was necessary to keep a guard there.



Q. When you say, "Keep a guard there", does that necessarily mean a Deputy United States Marshal?

A. No, we hire normally off-duty police officers in transporting prisoners, or keeping prisoners in the hospital, and it is usually someone we know personally in handling prisoners, knows our rules and regulations of security of prisoners, which is normally an officer off-duty.

Q. It doesn't necessarily have to be a U. S. Deputy Marshal to do this guarding?

A. No, we have the authority to hire guards for the purpose of guarding prisoners.

Q. Some type of peace officer?

A. Normally an off-duty police officer.

Q. Did you, after talking with Deputy Jones, call Deputy Slocomb?

A. Yes, I did.

Q. What did he tell him, excuse me, what did you tell him?

A. I think I reported to him the circumstances of [445] what we had done, and what the doctor had recommended.

Q. Did Deputy Slocomb give you any directions or information, or did he merely acknowledge receipt of your information?

A. Well, the best that I recall, he just acknowledged, told me to keep in contact with Jerry about what was going on.

Q. Was there any discussion either between you and Deputy Jones, or between you and Deputy Slocomb, about making some arrangements at the County Jail?

A. Yes, there was.

Q. What were those discussions?

A. Well, I think when I talked to Slocomb, it was mentioned that I should, if we could obtain a safe place to keep Logue, we should return him to jail. I don't remember exactly at what point.

Q. Did you subsequently receive instructions concerning the conditions of the Nueces County Jail as far as receiving this prisoner?

A. Yes, at this point I recall that my phone in the Marshal's office was inoperative, something was wrong with it, I had trouble because I [446] believe I received a call from the Marshal's office in Laredo through the United States Clerk's Office, and I believe they called me at the phone, and he said he had been trying to get me. And I think at that point I found out that my phone was not performing, and I told him my phone was out, and he said he would call the jail himself from Laredo and talk direct to Corpus Christi.

Q. Who was this call from, from Laredo?

A. Jones.

Q. What purpose was there in calling the jail in Corpus?

A. To make arrangements to keep Logue. It was my understanding from the conversation with him later, that he did call, in fact, Tom Lowrance, the Chief Jailer, and talk to him about fixing a cell and a safe place to keep Logue. In fact, he told me he had talked to him and they were preparing a place.

Q. Why was it necessary to especially prepare a cell for safekeeping of a prisoner like Logue?

A. Well, I believe Dr. Gwin, he said that if we were going to bring the boy back to jail, we should

have a safe place to keep him because of [447] the attempt of his taking his life.

Q. I think we have covered this before, but why was the boy taken from the jail to the hospital in the first place?

A. Because he attempted to commit suicide and injured his arm.

Q. By what means?

A. I believe he used a razor blade, if I'm not mistaken. I don't recall if I actually knew what he used, I think it was a razor blade.

Q. He tried to cut his arm?

A. He did cut his arm, pretty severely.

Q. And because of that he was taken from the Nueces Jail to the hospital in Corpus Christi?

A. That's right.

Q. After Deputy Jones indicated to you that arrangements would be made at the jail for safekeeping, did you do anything then?

A. Yes, I went to the jail. In fact, he instructed me to go to the jail and make an inspection of the cell.

Q. Of the cell Logue was to be put in?

A. Yes.

Q. Did you make that inspection?

A. I did make that inspection.

[448] Q. What did you look for?

A. Well, for any sharp instruments, anything that he could injure himself with, cut himself with. We, normally, in a cell like that, we strip everything out of it, any cups, or spoons, or sheets, or blankets, and just have the mattress is all.

Q. Did you do that in this instance?

A. Yes.

Q. Were there any sheets, blankets, spoons, or cups that you had to take out of this cell?

A. No, they had already taken everything out.

Q. The Sheriff's Deputy had already taken care of the cell?

A. Yes, the jail personnel.

Q. And you went over there and you inspected it, and what was in the cell?

A. Just a bunk with a mattress, and, I believe, just a commode, just a jail type commode, it doesn't have a lid or anything on it, and I believe a wash basin, the best I recall.

Q. There was no pad on the bunk, just a mattress?

A. Just a mattress.

Q. And what else in the cell?

A. Yes.

[449] Mr. Pain: Excuse me, I read the question wrong—

By Mr. Pain:

Q. And that was in the cell?

A. Yes.

Q. No other loose objects?

A. No.

Q. Were there any light fixtures attached to a hanging cord from the ceiling?

A. No, not that I recall.

Q. What did you do after inspecting the cell that you anticipated Reagan Logue would be transferred to?

A. To the best of my recollection, I went back to the office and called Dr. Gwin.

Q. All right, what did you tell him, or ask him?

A. I told him we had made arrangements to keep Logue in the Nueces County Jail. They had prepared a cell, and that I had inspected it, and it was my judgment that it was a safe place to keep him.

Q. What did he say then?

A. He said that under these conditions he would release him, and I asked him if he would call the nurse on duty and so inform her, and he [450] said he would.

Q. Did you tell the doctor that you had inspected the cell?

A. Yes, I did. I told him at the same time that a Court Order was forthcoming, I had already been instructed by the Marshal in Laredo, my supervisor, that Judge Connally said he would issue such a Court Order to have him removed as soon as possible to an institution, and I had been informed by my superiors that they would remove him to an institution as soon as possible. And he said under these conditions, I will release him to you.

Q. And he did release him?

A. Yes, sir, I went to the hospital about 3:15 that afternoon, and I checked with the nurse in charge on this floor, and she told me Dr. Gwin had called her and told her to release Logue to me. And shortly after that, I took him in my car back to the jail, and I again inspected the cell. Prior to putting him in the cell, I walked to the cell and checked it again, and they put him in the cell and locked him up, and I left. And I didn't have any further contact

with him at all after that. [451] I went back to, that afternoon—I don't remember exactly what time it was, but it was, I'm sure, after 4:30, and I went back to my duty station in Edinburg, or I left Corpus Christi in route to Edinburg.

Q. Now this day you talked with the doctor, and inspected the jail, and talked with Dr. Gwin about the boy's release, and assured the doctor that there was a safe place to keep the boy, and also when you took the boy from the hospital to the jail upon the doctor's release, this was all on May 24th, 1968, is that correct?

A. That is correct.

Q. Did you ever see Dr. White?

A. No, sir, I did not.

Q. The only contact you had with him was by telephone?

A. Yes, that is right.

Q. About how long was that telephone conversation?

A. Well, the best I recall, it probably didn't last over two or three minutes at the most.

Q. And either during, or immediately after this telephone conversation with Dr. White, did you have the understanding that Dr. White was Reagan Logue's doctor?

[452] A. It was my understanding that Dr. White was the physician on duty in the emergency room when he was brought into the room for hospital treatment. I assumed he was still his doctor, if he treated him, until I was told by Dr. White, or possibly one of the nurses.

Q. I think you testified that Dr. White's conversa-

tion with you was to the effect that Dr. Gwin was the boy's doctor, and my question was, either during or right after this conversation over the telephone that you had with Dr. White, what understanding did you have as to the boy's doctor?

A. Dr. Gwin was his doctor.

Q. And as far as anything to be done to the boy, or with the boy, was it your understanding that you would have to go through Dr. Gwin?

A. That is absolutely right.

(Discussion held off of the record.)

Mr. De Anda: Your Honor, this is cross examination.

The Court: All right.

[453] CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. Bowers, you have mentioned a conversation with Dr. Gwin pertaining to the boy when you returned to the room in which the boy was confined in the hospital. Did you have occasion to see the room and examine it?

A. I stood in the door, just glanced in the room, I never did actually go in the room where the boy was. I just stood in the door and looked around.

Q. Well, was it a regular type hospital room, or did it have any kind of additional security measures, like you see in the cell, was it more like a cell than a hospital room?

A. Well, I would say that it looked like a normal hospital room except it had a locked door, and they had taken all of the furniture out of the room, and there wasn't nothin' in the room except the mattress. I don't recall what the window had, whether it was barred or not, I don't recall, but I do know the room was stripped of furniture.

Q. You do know the Memorial Hospital is where they [454] keep the psychiatric cases?

A. I didn't know it until I went up there, and that was my first and last time I had been up there.

Q. And I believe you said earlier you were somewhat concerned about the boy, about being sure the boy had a guard at the hospital at all times for his own safety, as well as the safety of others?

A. My concern was for the security of the prisoner, that he did not escape. As far as his safety in the room, the guard did not stay in the room with him, the guard stayed out the door. He was posted outside the door. As far as his safety in this particular room, why, I don't think the guard actually had any function there because they were going in and out of his room all the time.

Q. The guard could hear anything that went on in the room?

A. I believe he could hear anything that went on in the room.

Q. Now in your conversation with Dr. White, you emphasized, I believe, his condition, the boy's condition with reference to his arm and the wound that he had inflicted on his arm?

[455] A. Yes.

Q. And what your conversation with Dr. White was



relating to, at least your questions related to the boy's physical condition?

A. Yes.

Q. As distinguished from the boy's mental condition?

A. Yes.

Q. What is the reason that you distinguished between the two conditions? What difference did it make to you why he was in the hospital, hospitalized?

A. Well, it was, I was very concerned why he was there. He was a prisoner in my custody, and if he had inflicted wounds on his arm, I wanted to know the condition of them.

Q. How about his mental condition, were you also interested in that?

A. Certainly.

Q. Would it have made any difference to you if he was confined to the hospital because of his mental condition, or confined in the hospital because of his physical condition, insofar as keeping him in the hospital was concerned?

A. Well, I don't know just exactly how to answer your question. At this point, of course, when [456] I went to the hospital, I thought he was confined to the hospital because of the injury to his arm. I, at this point, I didn't know anything about his condition other than the injury to his arm.

Q. Well, you, somewhere along the way there, in your conversations with Dr. Gwin or Dr. White, or both, you became aware of his mental condition?

A. Oh, yes, certainly.

Q. And you were concerned about it?

A. Yes.

Q. Is that right?

A. Oh, yes, certainly.

Q. Did it make any difference to you whether he was in the hospital because of his mental condition, or because of his arm, insofar as your decision to let him remain in the hospital?

A. Well, it wasn't my decision to make, to leave him in the hospital. My superiors made that decision. I did not make that decision.

Q. So far as you would—excuse me, let me start over—so far as you know, would that fact enter into your superior's making that decision, whether or not he was in there for a physical condition or whether he was in there [457] for a mental condition?

A. It was the policy to keep a person in the jail, or the place we have a contract to detain our prisoners, and not to keep them in the hospital unless it is absolutely necessary, unless the doctor orders him kept in the hospital. Certainly, if the man cuts himself, he would have to go to the hospital for treatment, but immediately upon release from the hospital, or from the doctor, we normally take him back to the jail. And I think even with a mental condition, if you have a safe place to keep them in, if the doctor says it is okay to return the man back to the jail, I would treat the physical condition the same as I would a mental condition, if the doctor released him back, to go back to jail, I would return him back to jail, of course.

Q. Were you under the impression at that time that if a man had a mental condition, whether it was

one that required hospitalization or not, but didn't have a physical condition that required hospitalization, that you had to take him back to jail?

A. Would you state that question again?

[458] Q. All right, were you under the impression at that time, either because of what your superiors told you, or because of your own interpretation of your rules and regulations, that you were under the impression at that time that if a man was only suffering from a mental condition, as distinguished from a physical condition, that you would have to take him back to jail regardless of whether or not he ought to be in the hospital?

A. No, I think I still say it would be up to the doctor, what the doctor would say.

Q. All right, in other words, if the doctor said there is nothing physically wrong with this man, his arm doesn't require any kind of hospitalization, but he is mentally disturbed, and because he is mentally disturbed he ought to be in the hospital, if the doctor had told you that, then you would make no effort to take him out of the hospital?

A. Mr. De Anda, I couldn't take him out unless the doctor released him. I certainly wouldn't take a man from the hospital and take him back to jail unless the doctor released him. I say this, if it's, whether it's physically or [459] otherwise, if he released him to take him back to jail, certainly, I would take him back to jail.

Q. Did you have any problems with Dr. White or Dr. Gwin about taking this man out of the hospital?

A. I had no problem with Dr. White. I only talked with him a very short time. I had no problem with Dr. Gwin at all.

Q. You didn't have to convince Dr. Gwin that you had to take the man back to jail?

A. No.

Q. Why is it that you were taking all these precautions and calling back to Dr. Gwin after you had been instructed to take the man back to jail?

A. I had been instructed by my superiors not to take him out of the hospital unless I had a release from Dr. Gwin, very specific instructions, that is why I called him back.

Q. Well, when was it Dr. Gwin finally released the man to go back to jail, as best you recall, if he did release him to go back to jail?

A. He did release him.

Q. All right, that is your version of it. Now if [460] Dr. Gwin said the only reason he released him was because he felt he had no choice, because of his conversations with you or some other member of the Marshal's office, would you agree with that statement?

A. No, sir.

Q. All right.

A. I certainly wouldn't, and I don't think Dr. Gwin said that. He didn't say that to me.

Q. Now—

A. —And the point of Dr. Gwin releasing the man, there is no doubt he released him. I talked to him personally and he said if we had a safe place to keep him, he would release the man.

Q. Now you say you had a conversation in Mr. Foster's presence with Mr. Jones, a phone conversation?

A. I don't recall whether I had it when Mr. Foster came in the office—I believe that—I don't know whether I was talking to him, talking to Jones when he came in the office, or whether I called him after he came in. It is possible I may have talked to him and called him back when Mr. Foster came in.

Q. Do you recall in that conversation mentioning [461] you hadn't been home for a couple of week-ends, but you would be willing to stay in Corpus Christi and guard Mr. Logue?

A. I don't know how long I had not been home. That is too long to remember. On several occasions I would be gone from home two or three weeks at a time. Whether I made the comment I would stay there and guard him, it is possible I made that remark, I don't recall that I did.

Q. All right.

A. It is for sure that if I couldn't have obtained a guard, I would have been there guarding him.

Q. Well—

A. —It would have been my duty to.

Q. And were you trying to convince Mr. Jones to permit you to stay there and guard Mr. Logue, or to keep him in the hospital?

A. Mr. De Anda, I don't recall. I know I was concerned about the young man.

Q. All right.

A. I can't—certainly, I have to be frank with you, I was definitely concerned about him. Whether I made the remark I would stay there, I don't recall.

Q. Did you tell Mr. Jones that the doctors had [462] stated the boy ought to remain in the hospital?

A. I don't recall making that statement. I know that the doctor did say that he should stay there if we didn't have a safe place to keep him.

Q. Did you, did the doctor tell you he should stay there unless he was transferred to another medical facility? Do you recall him telling you that?

A. No, I remember him saying he should be transferred to a mental institution for observation as soon as possible.

Q. All right, didn't the doctor tell you that he ought to be transferred from the hospital to some other mental institution or medical facility, do you recall that, Mr. Bowers?

A. I believe that particular statement was made before we discussed about a safe place to keep him.

Q. In other words, the doctor did not recommend that you take him to any place other than a medical facility—

A. —Unless we had a safe place to keep him.

Q. Did he specify, did the doctor specify what he meant by a safe place to keep him?

[463] A. I don't recall him actually laying down the ABC rules, or anything; he just took, I took it he meant a place without instruments that he could inflict wounds on himself, or harm himself, that is what I—

Q. —Did you also take it to mean he ought to be under any sort of observation?

A. I don't recall him saying anything about he should be kept under observation. I think as a practical matter, that a person under those conditions should be kept under observation. I don't recall him specifically saying that.

Q. In other words, you believe he should have been kept under observation while in jail, under the conditions?

A. Yes, I think he should have. In fact, I think that was, we understood that he would be under observation.

Q. Now there were some discussions at the jail that this would be one of the conditions that would make the cell safe, would that—strike that and let me start again— Now, there was some discussion at the jail that this would be one of the conditions that would make the cell safe, would be that he would be kept under constant [464] observation?

A. I don't know whether the word "constant" was used, but that someone would be watching him, or he would be under observation. Whether it would be constant observation, I don't recall that ever being used.

Q. May not have used the words, but somebody ought to be watching him while he was there?

A. Yes.

Q. Was this suggestion made to you, Mr. Bowers?

A. The best I recall, I believe that when Deputy Jones talked to Tom Lowrance, there was some mention of putting him in a cell where he could be observed, or possibly put him with a trustee in a cell next to him where they could watch him, and that was my understanding of what would be done.

Q. Of course, you were aware he had this bandage, this hand and arm wrapped in this bandage?

A. Yes.

Q. And you were aware of the kind of bandage it was?



A. No, I wasn't aware of what kind of bandage it was. I didn't know whether it was just a—I have thought quite often since then, trying [465] to recall what kind of bandage he had on his arm, and I honestly couldn't tell you whether it was a wrap-around or whether it was a, what do you call it, a bandage they make up—

Q. —Gauze pad?

A. Right, with tape on it.

Q. You know now that it was a long bandage?

A. I don't know, but I heard he had a bandage that was strong enough to hold his weight.

Q. All right.

A. May I say something off of the record?

Mr. De Anda: Well, we decided for you not to say anything off of the record. And the next question is—

By Mr. Anda:

Q. As far as you know, was anybody in the Marshal's Office, either you or anyone else, under the impression that you had no funds or authority provided to keep a man in the hospital for a mental condition that was under your care and charge?

A. Well, it has been my understanding that as a practical matter, that if you have got a man in the hospital, as soon as you obtain a release from the doctor, you should put him back in the [466] jail because keeping him in the hospital is a tremendous cost to the taxpayers.

Q. You didn't answer my question, but maybe—so far as you know, were either you or anybody else in the Marshal's Office connected with this transaction,



under the impression that you could not keep a man in a hospital, like Memorial Hospital, strictly for a mental condition?

A. I'm going to answer your question exactly like I did before, that it was my understanding, my only understanding would be that you would not keep a man in a hospital for any reason if you could keep him in the jail; if you could return him to the jail since the doctor released him. I know nothing about the difference between a physical and a mental condition, or about what funds are available or anything, except that trying to get the man to stop the expenses as soon as practical, and as soon as the doctor releases him.

Q. As I understand you, and tell me if I understand you right, you see no difference of anyone that is indicated otherwise, but whether a man is in the hospital, if he be in the hospital for [467] a mental condition or for a physical condition, he could come out of the hospital if the doctor said it was proper for him to do so?

A. That is right.

Q. And if the doctor said it was not proper for him to be out of the hospital, that he should stay in the hospital even though he might not have anything physically wrong with him, it might be a mental situation—

A. —That is true, the doctor, what he would say would be the determining factor as far as I am concerned, and has always been the determining factor when I put a man in the hospital or take him out.

Q. Well, when was it that the doctor finally told

you that it was all right to release him from the hospital?

A. When I called him and told him we had a safe place to keep the man.

Q. From the jail, you called him from the jail?

A. No, I think I called him from the office.

Q. All right, you say that every time you observed him laying in the hospital, he was lying on this mattress?

A. Mr. De Anda, the only time I actually recall [468] seeing the boy was when I first went to the hospital that morning.

Q. All right.

A. And looking in the door, and he was laying on this mattress. Whether he was asleep or what, I, I don't remember having any conversation with him whatsoever.

Q. Anyway, he was laying on the mattress whether he was awake or asleep?

A. Then when the doctor, Mr. Gwin, went upstairs to look at the boy, I recall I went back with him, and I think I stood at the door. I don't, I can't recall whether he had any conversation with him or not.

Q. Where was the boy then?

A. Well, the best I recall, he was still laying on the mattress.

Q. All right, now when you went in to get him to take him to jail, did you do that by yourself, or did someone go with you?

A. Well, I actually took him myself, but there was a Deputy on duty there guarding at the time, I don't recall his name.

Q. It would be someone from the Sheriff's Office?

A. Yes, it was one of the Deputy Sheriffs from the [469] Sheriff's Office.

Q. Now when you went in to get him, was he still laying on the mattress?

A. I don't recall whether he was laying on the mattress at that time or not. He was in the room, I know that, but I don't recall.

Q. Did you have to assist him in any way to take him to jail?

A. No, other than just—you mean carry him or anything like that?

Q. Carry.

A. No, I didn't have to carry him. I believe that he was possibly kinda wobbly on his feet, or something, but I didn't have to carry him. He went under his own power.

Q. If I remember, the doctor said something about him being under heavy sedation—

A. —It's possible he could have been.

Q. Did you have to assist him, not in a sense you had to carry him, but in a sense you had to help him along? I don't mean you were fighting, you say he was wobbly, was he wobbly enough to where you had to hold him up?

A. I didn't have to hold him up. I may have had to lead him, maybe put my arm under his arm, but [470] I know he went under his own power. The best I recall, he was a little wobbly, and possibly might have been under sedation, I don't know. He did walk by himself, I know.

Q. Did you have any conversations with his mother there at the hospital?

A. Yes, I believe that there was a lady, this was a different lady than was at the house when I arrested him, and it was my understanding this was his real mother. She was concerned about his clothes, I believe, and I told her, because when I took him from the hospital, I took him with his pajamas. He had on, I believe, a short-sleeved shirt and short pants, and she was concerned about his clothes. And I told her just to keep his clothes and she could bring them to the jail. I believe she wanted to ride with him and I told her she couldn't. We didn't have very much of a conversation. I think the best I recall she was concerned about his clothes. In fact, I think she had took his clothes home to wash them for him, and she had brought them back to him and wanted to know what to do with them.

Q. Do you recall telling Mr. Foster that you had [471] been advised by Dr. Gwin when you were there in your office in this telephone conversation, and you saw Mr. Foster walk in, do you recall telling Mr. Foster that Dr. Gwin had told you that under no circumstances should the young man be returned to the County Jail, but that he should be retained in the hospital under the doctor's care?

A. I don't recall making that statement. I may have said the doctor didn't want him taken out of the hospital unless we had a safe place to keep him. Dr. Gwin was very concerned about him, there is no doubt about it.

Q. I know this happened some time back, Mr. Bowers, and I'm not trying to badger you or anything.

A. I don't recall that specific conversation.

Q. But you do know, and you do remember that

Dr. Gwin was quite concerned about the young man going anywhere other than to another hospital?

A. Yes, he was. In fact, I think Mr. Foster—in fact, the fact is I think Mr. Foster, we all were.

Q. I see, and you were concerned enough about it to where you went to the jail and made a visual inspection of the cell itself?

[472] A. Yes, I sure did.

Q. And in fact, you really, did you make two inspections?

A. Yes, I made one just after I took him upstairs, and while we were holding him kind of in the run-around, I went back and checked the cell again because, the best I recall, the door had been left open.

Q. And the reason was Dr. Gwin had expressed all his concerns to you, and also because you knew the boy had already tried to kill himself, so you knew he was serious about suicide?

A. There was no doubt in my mind he was.

Q. Yes, and it was your understanding when you left him there in the County Jail, that he would be kept under a sort of surveillance or observation while he was there?

A. That was my understanding, yes.

Q. And that, plus the fact that he was in this cell where there appeared to be nothing with which he could injure himself, is what made you tell the doctor that you had a safe place for him?

A. I told him I thought, in my judgment, we had a safe place to keep him.

[473] Q. That was because of these facts we have talked about?

A. Yes.

Q. And had the cell contained foreign objects and things, or had he not been under observation or surveillance, then you would not have considered it as a safe place?

A. That is correct.

Q. And you would not have made that statement to Dr. Gwin?

A. I certainly wouldn't.

Q. Who was it that instructed you to return the prisoner to the jail, Mr. Bowers?

A. Well, I don't recall of anybody instructing me to take him back, other than my instructions were to go make an inspection of the jail to see if the cell was safe. I had been told that by my supervisor, that he had contacted the jailer and that a safe place would be prepared and they would watch him and take care of him.

Q. That was Mr. Jones?

A. Yes.

Q. Mr. Slocomb is a Chief Deputy?

A. Yes.

Q. And what would Mr. Jones be?

[474] A. Supervisor.

Q. And you would be working under him?

A. Yes.

Q. And all your decisions you made, and all the things you did, and all of your actions pertaining to Mr. Logue and the removal of Logue from the hospital, and his confinement in jail, all these things that we have talked about, you did as a U. S. Marshal, a Deputy Marshal?

A. Yes.

Q. And it was in the scope of your authority and your employment?

A. Yes, sir.

Q. When you first arrested Logue at his home, you say he had to dress; how was he dressed when you first saw him?

A. He just had on a pair of levis

Q. No shirt?

A. No shirt.

Q. No undershirt?

A. No undershirt, no shoes or socks.

Q. You mentioned something about a brown paper sack in the room, did you look at it, or look in it?

A. I think I picked it up and smelled of it. It [475] was empty. It was just a large paper sack, about a medium shopping bag size, with the edges turned down about a third of the way down. There wasn't anything in it, just smelled real strong of glue.

Q. Would you say the whole house smelled strongly of glue?

A. Yes, immediately on coming in the front door in the hallway, you could smell the smell, and as I got to the room, it was a little stronger.

Q. You didn't have any conversation with him or with his mother or anyone there in the house about the glue smell?

A. No, I certainly didn't.

Q. All right.

A. I just observed this, and the fact, I think I mentioned it to the Customs Agents while we were there, made some remark about it.

Q. You say that whenever you got to the jail, that Logue identified himself as God Logue?



A. Right, (spelling) G-O-D is what he said.

Q. Is that how he spelled it?

A. Yes, he spelled it out.

Q. Then I believe you said something about—

Mr. De Anda: —Time out, let me see here [476] what I asked, Judge, if I might. That's going into the matter that the Court excluded, and I'm going to skip this question.

Mr. Pain: Your Honor, it's his own question.

Mr. De Anda: Well, I don't care whose question it is.

Mr. Pain: I think he should be allowed to read his own questions that he asked.

Mr. De Anda: I will read my questions, the questions I would not object to the answers, Your Honor.

The Court: You said the Court excluded?

Mr. De Anda: Yes, sir, with reference to the voluntary, or comments, Judge, when he was first booked at the, this was a discovery, discovery deposition, and I don't think I am bound to read every bit of it. He can read it if he wants to, and if the Court rules it is admissible—

The Court: —I think you can get it that way, I just don't know—

Mr. De Anda: —Judge, let's go ahead and I will read it, that will save time.



[477] The Court: All right.

By Mr. De Anda:

Q. Then I believe you said something about the jailer there saying, well, he didn't have to get any information from him because he had the information?

A. He said he wouldn't give his address, his age, or anything, any normal thing that they ask a man, and he said, "Well, it's okay, we have got his report back; we have had him a couple of weeks ago."

Q. And was Logue's demeanor at the time that of a person mentally off, he wasn't just trying to be a smart guy?

A. No, Mr. De Anda, I would say he was pretty high.

Q. In other words, his reactions and his responses were not that of a wise guy?

A. No, it was—

Q. —But rather a man, or a person who did not have possession of his mental faculties for whatever reason there might have been?

A. Well, I don't know exactly how to answer your question. He was not in his normal state. He was under the influence of something.

Q. It was an abnormal reaction rather than a [478] resentful reaction to the questioning?

A. Well, I think he was resentful to the fact he was being arrested, and he didn't know why he was being arrested. This case, I understand, was a conspiracy case he was involved in, and the fact, I don't believe he was actually caught with this marijuana, and he possibly didn't understand the circumstances

of conspiracy charges, and I think that he was concerned with his case he had pending the next day before Judge Roberts, and that, and the fact he was being taken to jail. He was upset, but I wouldn't say he was belligerent, or trying to be smart or anything.

Q. Now at home when you arrested him, you did not know him?

A. No, I had never seen him before.

Q. Did you ask him who he was?

A. Yes, when he came to the front door I asked if he was Reagan Logue, yes.

Q. He did acknowledge that?

A. Yes, he did.

Q. All right, when you talked to Dr. Gwin the last time that you talked to him, before getting Logue out of jail, I believe you went into some [479] detail about describing to Dr. Gwin the surroundings and the situation that existed in the jail, and the conditions under which Logue would be confined?

A. No, sir, I don't remember going into detail with anything other than telling him I had inspected the cell, and I considered it a safe place to keep him.

Q. I believe you mentioned also the fact that he would be kept under surveillance, those were the things you talked to him about?

A. Yes.

Q. And it was after that, that Dr. Gwin told you, well, it would be all right to get him out of the hospital?

A. He said, "Under those circumstances, I will release him to you."

Q. All right, did you ever talk to Mr. Vaught, How-

ard Vaught, about this situation while Reagan was still in the hospital?

A. Mr. De Anda, I don't remember when I talked to Mr. Vaught. I do know I had a conversation with him concerning this boy. My understanding, I believe he had had the boy on a, maybe probation, or probation investigation, pre-sentence [480] investigation on the boy. I do recall having some conversation about the boy, and I remember at the time I was concerned about the boy. I recall my conversation with him concerned his call to Chief Deputy Slocomb and with Mr. Lowrance, the Chief Jailer, and possibly there was some other conversation concerning Mr. Logue about it, but I don't recall.

Q. Didn't Mr. Vaught suggest to you that Logue should not be returned to jail, but rather kept in the hospital?

A. I don't recall him making that statement. He possibly could have, but I don't recall it. I don't think that, well, not that I wouldn't have listened to Mr. Vaught's suggestion along that line, but I don't think he would have—what he would have said would have made any difference because it was up to the doctor. I won't say he didn't say it, but I don't recall him saying it.

Q. I understand you took your orders from Mr. Slocomb and from Mr. Jones, and if there was a conflict between their orders and Mr. Vaught's suggestions, or orders, or what you may want to call them, you would have listened to your [481] superiors, that was your obligation?

A. That is right.

Q. As a matter of fact, if your superiors told you to take Logue out of jail, regardless of what Dr. Gwin said, you would have taken him out of jail? I mean you would have taken him out of the hospital, excuse me?

A. No, I don't believe I would have.

Q. In other words—

A. —I don't think, to begin with, my superiors would have told me to take a man from a doctor's care without the doctor's okay. They would never have told me that. If they had, I think I would have—I don't think I would have taken him out under those circumstances because I was directly responsible for the man, or at least I felt I was. I was on the scene and was there, but they wouldn't have told me that.

Q. I'm not saying they did, I'm just saying if they had.

A. All right.

Q. Did you talk to anyone else other than Mr. Slocomb and Mr. Jones about this problem, about Logue and his confinement in the hospital, and his removal to the jail?

[482] A. I'm sure I had conversations with several people.

Q. I'm sorry, nobody else in the Marshal's Office?

A. Not that I recall.

Q. All right, now what conversations do you recall you had with Mr. Slocomb? How did he enter into any direct conversations with you?

A. After I reported all of this to my superior, Jones, in Laredo, he instructed me to report this to Chief Deputy Slocomb, which I did.

Q. Now by "this", what do you mean, what was it that he told you to report to Slocomb?

A. The fact that the boy had, well, he already knew the boy had attempted suicide, but he told me to call him and let him know what had happened, what the doctor said, and inform him about this, the efforts to obtain a Court Order to remove the boy to an institution. Mr. De Anda, before we can remove a prisoner at all under the set-up at that time, and I understand it is the same set-up, we have to go through what we call a Prisoners Coordinating outfit in Washington, which authorizes the movement of these prisoners in Washington. And I believe my conversation [483] with Mr. Slocomb was to report to him what we were trying to do, or what we were attempting to do, where he could let the people in Washington know that there was this pending Court Order, they could make arrangements for transportation for the man. Mr. Slocomb was to let them know what we were trying to do, get this man removed.

Q. That is, take him to the mental facility, to a medical facility?

A. Yes.

Q. It had nothing to do with his removal from the hospital to the jail?

A. I am sure it had something to do with that, too, the whole thing.

Q. You also talked with Mr. Slocomb about a determination as to whether or not he should be removed from the hospital to the jail?

A. No, I don't remember talking to him about whether he should be removed or not.

Q. Well, did you talk to Mr. Jones about removing him from the hospital to the jail?

A. I'm sure in our conversations we had quite a bit of discussions about it.

Q. In other words, your conversations pertaining to the decision to remove Reagan Logue from the [484] hospital and return him to jail, were with Gerald Jones?

A. No, with Dr. Gwin.

Q. All right, you had no conversations with Jones after that decision?

A. Oh, I'm certain that we talked about taking him back to jail.

Q. All right.

A. I don't think there is any doubt about that, but the decision of whether to remove him or not, I don't think that was our decision to make. It was, I think, Dr. Gwin's decision.

Q. So you didn't talk about that, or clear it with him, or anything, because that was strictly a decision between you and Dr. Gwin?

A. Well, my first conversation, and my, in my conversation with Dr. Gwin, we discussed the fact of getting this boy to an institution as soon as possible, and where we would keep him in the meantime.

Q. Yes, and—pardon me—

A. —And he said if we had a safe place to keep him in the jail, if there was a safe place there, he would release him if we were sure it was safe. And this information was conveyed to [485] Jones and to, I'm sure to Slocomb, both.

Q. What did Jones say about it?

A. Well—

Q. —If you recall.

A. Well, at this point I think it is about the time my phone went out, and he said, when I talked to him in the Clerk's Office, he said, "I'll take care of it." And in the meantime, I was getting the phone men to work on the phone, and somewhere, in a couple of hours, we had the phone working and we had the conversation. I believe that is when Mr. Foster was in there and it was still working.

Q. And these were conversations with Jones?

A. Yes, we talked, I'm sure, four or five times that day.

Q. Now your conversations with Slocomb did not pertain to this business about getting him out of the hospital and putting him in jail, but rather pertained to getting him transferred to a medical facility, a federal medical facility?

A. No, that is not correct. I think we probably talked about both things.

Q. All right.

A. Rather than just one.

[486] Q. Do you remember anything specific about your conversation with Mr. Slocomb pertaining to Reagan's removal from the hospital and return to jail?

A. Other than the fact he said to be sure you get a release from the doctor, be sure the doctor releases him to you before you take him back. In fact, the best of my recollection is, that was my instructions from both of my superiors.

Q. All right, then, let me get one other thing

straight, Mr. Bowers, as I understand it, no one instructed you to take Reagan Logue back to jail. This was done by you, strictly based on your negotiations and discussions with Dr. Gwin?

A. No, I couldn't say that.

Q. I thought that is what you said. How do you want to qualify that statement?

A. Well, I had no specific instructions from anybody about taking the boy back to jail, or leaving him in the hospital, or anything. As I stated before, the normal procedure is, when a person is committed, a prisoner is committed to the hospital, that you, as soon as it is practical, and as soon as the doctor will [487] release the man, is that you take him back to the institution that you take him out of, as a practical matter. And this is something we always do, and always is assumed, is understood, and as far as anybody making a decision to bring him back, I don't recall anybody making a decision saying, "Take this man back." But since the doctor released him, we would take him back, and I didn't say anybody gave specific orders to take him out of the hospital.

Q. Now in the usual case, does the doctor, or have someone call at the hospital, have someone call the Marshal's Office and say, "This man is going to be released," or make arrangements to pick him up, or how is that done?

A. It is handled all kinds of ways. It is owing to what hospital that you are connected with. I would say that if I was in my home station where I know the doctors, know them personally, and if I had a man in a hospital, he would probably tell me; if I didn't know the doctor, I probably would call him



and ask him when I could have this man and so forth.

Q. You stated that you would call the doctor and then the doctor might tell you, "Well, I will [488] advise you when he is ready to be released, or I will have your office notified," is that the usual way it is handled?

A. Well, I can't say that it would be, Mr. De Anda, because I say, again, it is whatever the arrangements are that you have, or possibly the understanding that you have with the different institutions or different hospitals, whether you would call the doctor or he would call you. I don't think that there is any policy as far as—

Q. —I just wondered. Now, let me ask you this question—you say first you called Dr. White and determined that his arm did not require, his arm wound did not require hospitalization at that time?

A. Yes.

Q. And then you called Dr. Gwin?

A. I didn't call Dr. Gwin; I waited until he made his rounds.

Q. You went to the hospital?

A. I was at the hospital at this time. I was on the floor at the nurse's station where Logue was located when I talked to Dr. White. All I had to do was sit down and wait until he got there.

[489] Q. Now your purpose in going to the hospital the first time was what?

A. To check on his condition, how he was. I mean, I had a prisoner that had been taken out of jail while I was gone, and he was committed to the hospital and had a guard on him.

Q. So after you talked to Dr. Gwin the first time and he told you that this man's mental condition was serious—

A. —That's right—

Q. —certainly at that time he didn't indicate to you that he was going to release the man?

A. Mr. De Anda, I don't know when the conversation took place pertaining to releasing the man. He was concerned about getting him committed to an institution for observation as soon as possible. There was quite a bit of mention about a Court Order, about his attorney, Mr. Foster, to contact the Assistant U. S. Attorney in Laredo, to obtain a Court Order from Judge Connally. It was possible there was a conversation about releasing him from the hospital and putting him back at that time, but I don't recall when we talked about it.

Q. When was the first time you recall it was [490] mentioned, that he be taken from the hospital and back to jail?

A. I don't recall when it was. It was either at this conversation, or I talked to him only on the phone once, or twice on the phone, but at sometime we did discuss it.

Q. And what did you say, well, Doctor, when you discussed it with him—"Doctor, I am ready to take this fellow back to jail, I will find a safe place for him"? Something of that nature, or, "I want you to release him"?

A. I don't recall how the conversation came about. I just remember generally the doctor was concerned about him, and concerned that he would be kept in

a safe place, and that he would be removed as soon as possible to an institution. But I don't remember exactly the—

Q. —Mr. Bowers, you have been referring to a statement—

A. —I think you have a copy of it—

Q. —and just so we will be sure, we will go ahead and attach this to your deposition.

A. You can attach a copy, but that is my personal copy.

Q. All right.

[491] A. That is all I have got on this case.

Q. You also brought some other papers with you.

A. That is my logs for that particular month. I will give you the logs that pertain to that day.

Q. Do the logs for that particular day, here are the logs for the three days involved, the 22nd, the 23rd, and 24th—

A. —Those logs represent expenses involved, and normally they are not in detail of all the things I do, but, for instance, on that log, I don't believe I showed I went to the jail and made that inspection, but I did. But I don't think I showed it on my log, the best I recall; it didn't involve any miles, or not very much.

Q. I want to be sure I understand everything on there. Let me ask you this—on the Daily Log for May the 24th, you make mention, there is a comment, "C-O-M-M", is that, "Committed Logue to Nueces County Jail, instructed jail personnel as to security for the above prisoner," and those were the instructions you have been talking about, the safe place to

keep him, and keep him under surveillance and observation while he was in jail?

[492] A. Yes.

Q. That is what you are making reference to on this Daily Log for May the 24th?

A. Yes, sir.

Q. All right, well, I will just—I don't know if they will be of any value to us, but I suppose we can have a copy of these attached to the deposition. Also, do you have any other written memoranda of any kind that pertain to this event?

A. No, I don't.

Q. All right, have you made any other statement, Mr. Bowers, written statement?

A. Yes, I made a statement sometime after this. I made a statement to the F.B.I. Agent Crossett at Laredo. I don't have a copy of that, and I couldn't tell you other than he asked me questions pertaining to this event.

Q. I see, but there was a written statement and you signed it?

A. I don't recall whether I signed a written statement or not, I just couldn't tell you.

Q. Did he reduce it to writing in your presence?

A. I don't think so, I don't recall.

Q. All right, Mr. Bowers, do you recall any [493] conversations at all pertaining to funds that might be available to keep Reagan Logue in the hospital, or the lack of funds for that purpose because of his mental condition?

A. No, I would have no knowledge of what funds were available. I may have said something about getting the man back in jail, as far as the cost is con-

cerned, but as far as funds are concerned, I would have no knowledge what funds would be available for anything, other than the fact—

Q. —But you don't remember getting into any conversation with them about it?

A. No, other than the fact as I stated before, that it would cost Forty-eight Dollars a day for a guard.

Q. I'm not talking about the economy aspect of it, were you worried about the economy?

A. The man's condition, his safety and treatment is the first concern. But at the point where he can be removed, and for all practical purposes, I think that he ought to be removed.

Q. I understand that, Mr. Bowers, but other than any conversation about the cost or economy, that was not mentioned?

[494] A. No.

Q. There is nothing that you can recall that transpired to the effect, "Look, we just don't have any allocation or any money to keep a man in jail because he is mentally ill," there was nothing like that?

A. I never said anything about not having any money because I would have no knowledge of that.

Q. I'm saying, there was no conversation about that fact?

A. No.

Mr. Pain: Your Honor, there is about three, three or four questions on Redirect Examination, it continues—

The Court: Let's go ahead and finish it.

## [495] REDIRECT EXAMINATION

By Mr. Pain:

Q. When you took Reagan Logue from the hospital to the jail, how was he dressed?

A. From the hospital to the jail? He had on a pair of shorty pajamas and a sport shirt that goes with it, short-sleeved.

Q. And that is all he had on?

A. Yes.

Q. And that was the amount of clothes that he had on at the time he was put into the jail, is that correct?

A. Yes.

Q. Now this report that you have periodically referred to in refreshing your recollection, it does not necessarily contain all of what you have testified, does it.

A. No, it does not. This is just a report that I made to the Marshal concerning this incident.

Q. This report, in the way you have used it today, is merely to refresh your recollection of the times and so forth, is that correct?

A. That's right, as far as certain times of the day, I didn't recall. I knew it was in the [496] morning, but I didn't recall exactly what time until I looked at the report.

Q. And your independent recollection will supplement whatever is in the report?

A. Yes.

Mr. De Anda: And then there's a little more re-cross—

## RECROSS EXAMINATION

By Mr. De Anda:

Q. One other question, do you recall when you made this written statement that we have been referring to, this report we have been referring to, Mr. Bowers?

A. Do I recall what date?

Q. Yes, sir.

A. No, but it was just shortly after this happened, very shortly after, because I would have it, and it is a requirement of the Marshal's Office when anything like that happens, you make a report immediately after.

Q. This was made several days after, or was it?

A. I would say probably within a week or ten days after it happened.

[497] Q. I noticed that on here, the last statement on the report is, that you made a statement to F.B.I. Agent Harold Crossett at his office in McAllen about this incident, and that that statement was made several days later, so this statement was made even after you made your report to the F.B.I.?

A. Evidently it was, from looking at the last line in my report.

Q. And you don't have any independent recollection of how many days or weeks after that, that you—

A. —Not exactly—

Q. —prepared this written statement?

A. It was just shortly after it, but I would say a week or ten days.

Mr. De Anda: Judge, I believe that is in entirety the deposition of Mr. Bowers.

The Court: All right, it is after 5:00, and we will recess until 9:00 o'clock in the morning.

[498] (And thereafter on January the 28th, 1971, at 9:00 o'clock A.M., Court reconvened in the above entitled and numbered cause, all parties present and presiding as before, and the following proceedings were had, to-wit:)

The Court: Please be seated, Gentlemen.

All right, yesterday evening Mr. De Anda left a few citations with me, and xerox copies, did you furnish them with the citations that you left?

Mr. Bowers: Yes, Your Honor, they have handed them to us this morning.

The Court: You may proceed.

Mr. Pain: Your Honor, at this time I will call Mr. Jerry Jones.

The Court: Mr. Pain, is Dr. White going to come back or are you going to bring—

Mr. Pain: —No, sir, he is not coming, Your Honor, and Dr. White has been notified.

The Court: All right.



[499]

GERALD JONES,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

## DIRECT EXAMINATION

By Mr. Pain:

Q. You were sworn earlier, were you not?

A. Yes, sir.

Q. Please state your name.

A. Gerald L. Jones.

Q. How are you employed, Mr. Jones?

A. I am Supervisory Deputy U. S. Marshal for the Southern District of Texas.

Q. What is your area of supervision?

A. In actuality, I am the third man in the District under the Chief Deputy; I have supervision over all of the Deputies in practice; however, I supervise the Deputies in far South Texas, and supervise the Deputies in Houston.

Q. All right, and what, what counties does this include that you supervise in South Texas?

[500] A. Well, the three Divisions would be Laredo, Brownsville, and Corpus Christi.

Q. That's good, how long have you been employed as a U. S., or Deputy U.S. Marshal?

A. Twenty-two years, sir.

Q. And how long have you been employed as a Supervisory Deputy U. S. Marshal?

A. Mr. Pain, I swear I don't know, seven or eight years, or more, I'm not sure.

Q. And where is your duty station?

A. Brownsville, Texas, at this time, sir.

Q. And your duties do cover Corpus Christi at times, do they not?

A. Yes, sir.

Q. And Laredo?

A. Yes, sir.

Q. And Brownsville?

A. Yes, sir.

Q. And other areas in that general area?

A. Yes, sir, on occasion, Houston, Galveston, and Victoria.

Q. Would you explain your duties as Deputy U. S. Marshal, and in your capacity, also, as a Supervising Deputy U. S. Marshal?

A. I perform all the duties of a Field Deputy, and [501] in addition thereto, I advise with and supervise the other boys in their duties. If they have problems that they are unsure of, it is quite often that they call me for direction and supervision.

Q. How many Deputies do you have under your supervision?

A. Seven now, maybe eight.

Q. Now you have been present during the proceedings in this trial, and you have heard mentioned the Deputy Marshal deal with Bowers, was he under your supervision in May of 1968?

A. Yes, sir, he was.

Q. And if he had any problem in connection with the performance of his duties, that he did not think he could solve himself, you would be the person that he would go to first, is that correct?

A. Ordinarily, yes, sir.

Q. When was the first time that you had any contact with the facts of this particular case here?

A. On May the 22nd I was in Court at Laredo. We had quite a heavy docket there, we had had a Grand Jury, I don't know what day that May the [502] 22nd fell on, but I know that we had had a Grand Jury immediately preceding that date. And I became aware that there was a sealed indictment against some eleven Defendants, of which Reagan Logue was one, I know that some of the Defendants were already in custody, and we received a warrant on the sealed indictments for a number of other Defendants. I do not, at this time, recall how many, but I know there were two or more.

Q. And you received a warrant for the arrest of Reagan Logue?

A. Yes, sir.

Q. And it was delivered to you for execution?

A. That is correct, sir.

Q. What did you do then?

A. I entered into a conversation with a number of the Customs Agents who were there attending Court, and endeavoring to ascertain some information about the case, and where, the whereabouts of these Defendants, the facts surrounding the situation, and, in other words, gathering all the information that I could in order to effectuate the arrest of the individuals we wanted to arrest.

[503] Q. How did you go about to effectuate their arrest?

A. I believe that Mr. Bennett actually made the telephone call on this particular Defendant, and I think I called some other office somewhere in the

Western District concerning another individual, but Mr. Bennett called Deputy Marshal Bowers, who was in Corpus Christi at the time in the absence of Mr. Schorre, who was the only resident Deputy that we had here, and gave him all of the information that we had. And before the conversation was over, I was through, and I came in and I talked to Mr. Bowers also.

Q. This was on the 22nd of May, 1968?

A. Yes, sir, that's correct.

Q. Is that correct?

A. I recall specifically that we did not have an address in the case file for Reagan Edward Logue in Laredo, and that through the conversations with agents and everything, I told Mr. Bowers that the agency service here had a, had an open file on this young man and could give him the address and probably help in locating the individual.

[504] Q. What next occurred after you delivered the message, or had the message delivered to Mr. Bowers for the arrest of Reagan Logue?

A. In connection with this case?

Q. Yes, sir.

A. He called me back sometime that day, I am not sure of any time because I made no note of it, I received telephone calls many times during the day—

Q. And what—

A. —but he called me and told me that he had arrested Reagan Logue, and gave me the circumstances surrounding the arrest.

Q. What next occurred in connection with this matter?

A. I think the next time that I heard anything in connection with the case was on May the 24th, two days later, when Mr. Bowers called me in the morning and, and advised me that Logue had cut himself the previous day in the Nueces County Jail. Now he had been absent at that time on a prisoner delivery to Houston and Galveston, and the prisoner had been removed to the hospital by the Sheriff's Deputies. He stated to me that Mr. Marvin Foster, Logue's [505] attorney, had requested that the treating doctor, that Dr. Shannon Gwin, a local psychiatrist, had been allowed to see Logue as a friend of the family, and that Gwin had seen Logue and ordered him confined to the psychiatric ward where he was at that time.

Q. What did you tell Bowers, if you recall, and if you told him anything during this conversation?

A. It seems to me that his concern was guards, I think, that it was nearing the week-end and he did talk to me about the fact that he had been away from home for some two or three weeks, and that he was having problems locating guards, and he didn't quite know what to do about it.

Q. Why was he concerned about guards?

A. Because it would be necessary to retain guards on a prisoner who was in the hospital, one who is actually in our custody. I went into quite a discussion with him about guards at that time; I asked him if, in his opinion, first, I asked him if he had visited the psychiatric ward, and he stated that he had. And I asked him if he thought it necessary to keep guards on him, what was the condition of the psychiatric ward, and I don't know whether it was in [506] this conversation or another one that he told

me, I don't know whether he had actually seen the psychiatric ward at that time or whether he said that he would look into it and advise me of it, but essentially he did tell me that in his opinion that the psychiatric ward would not be a suitable place to keep the prisoner without a guard on him, due to what he termed "loose key control" and the general atmosphere of the situation.

Q. Now you have been a Deputy Marshal for some twenty-two years, is that correct?

A. Yes, sir.

Q. During that time you have become familiar with all the procedures and requirements of being a Deputy U. S. Marshal and the Marshal's Manual, is that correct?

A. Yes, sir.

Q. What is the ordinary procedure concerning guards and a Federal prisoner who is transferred from a jail to a hospital?

A. We always place a twenty-four hour guard on that prisoner who is being kept anywhere outside of the confines of a jail.

Q. Why is that?

[507] A. To prevent his escape.

Q. All right, now after this conversation with Deputy Bowers, what next occurred in connection with this case?

A. I, I don't know whether it was in the same conversation, or in a subsequent conversation that we had this discussion about the security of the psychiatric ward there, and he did, though, tell me that he, in his opinion, felt it would not be safe to leave Logue there without guards on him. And I advised

him that it was his responsibility, that he had better get out and look up some guards, that he was not, he was wanting to go home, and I told him, "Don't you leave unless the situation is as it should be, and that it's your problem, you are there, you handle it."

Q. Now this was on the morning of the 24th?

A. Yes, sir, I, I am sure it was, yes.

Q. Do you recall talking to Marvin Foster that morning?

A. Yes, sir, not, I do not specifically recall when I talked to Mr. Foster, but I talked to Mr. Foster in connection with a telephone conversation that I was having with Mr. Bowers.

[508] Q. Did you have more than one telephone conversation with Mr Bowers and/or Mr. Foster during the day of the 24th?

A. I had only one with Mr. Foster, but I had several with Mr. Bowers, I know.

Q. Do you recall the next telephone conversation that you may have had with Mr. Bowers after the initial one?

A. I believe, I know that probably the last conversation that I had with Mr. Bowers was when I was directing him to remove Logue from the hospital and remove him to the jail, and the arrangements that were being made and so forth. Now I may have also had another conversation with him concerning the 4244 Commitment Order that Mr. Foster had talked to me about before.

Q. Before we get to that last conversation with Mr. Bowers, did you have any conversation with Casey Slocomb?

A. Yes, sir, I know I did.

Q. And who is Casey Slocomb?

A. He is the Chief Deputy.

Q. And he is a Supervisor, is that correct?

A. Yes, sir, that's correct.

Q. What was the content of the conversation you [509] had with Casey Slocomb?

A. Mr. Slocomb asked me if I thought that the jail would be a suitable place to keep Logue, that if, if I thought they had suitable facilities, and I assured him that I thought they had.

Q. This was after Logue had cut himself and was in the hospital?

A. Yes, sir.

Q. This was pending his possible transfer back from the hospital to the jail?

A. Yes, sir, and I told him that I, myself, personally, would check on the situation, that I knew Mr. Lowrance there very well, the Chief Jailer, and I would advise him about it and let him know.

Q. Now you mentioned a conversation that you had on the telephone with Marvin Foster, was that on the 24th of May?

A. I am sure it was, yes, sir.

Q. Do you recall if that was in the morning or the afternoon?

A. I rather think it was in the morning; however, I could not be sure.

Q. What did he tell you?

A. He advised me that he had been trying to contact [510] Mr. Ronald Blask, who was the Assistant United States Attorney, in charge of criminal prosecutions at that time in Laredo, and with the end in view of seeking a 4244 Commitment for this



Defendant. He stated to me that he intended to bring this up at the time of arraignment of the Defendant in Court, and that he would go into the question of his mental competency at that time, and thought it would be wise, just as wise to do it now. And I told him that Mr. Blask was in Laredo; however, he was very busy, he had a tremendous case schedule, he was being harried, we were working quite hard in the Court also, and I told him that I would be glad to take it up with Mr. Blask and the Court for him and that I was sure there wouldn't be any problem with the thing.

Q. All right, before you go any further concerning what you may have done later, what is a 4244 Commitment?

A. It is a commitment by the Court in which a, when a person who is accused of an offense comes before the Court and is mentally, his competency is put into question, both at the time of the commission of the offense and his competency [511] to stand trial at the time is put into question, the Court commits the Defendant to, usually the Medical Center at Springfield to get a Government psychiatrist's opinion as to both questions.

Q. In your capacity as Deputy United States Marshal for the past twenty-two years, have you had the occasion to handle many of these 4244 Commitments?

A. Yes, sir, many.

Q. Now going back to the conversation that you had with Marvin Foster, he mentioned a 4244 Commitment, what did you, and you told him that Mr.

Blask was rather busy, what occurred, then, in connection with that conversation?

A. I, I told him further, I said, "If you want me to," he had already intimated that he would like for me to take it up with Mr. Blask, I told him that I would be glad to do so, and if there were any question at all whatsoever, I would have Mr. Blask call him. I thought he would have much greater luck in getting in touch with Mr., Mr. Blask by having Mr. Blask call him when he could.

Q. So would it be accurate to say that the gist of [512] Mr. Foster's conversation to you was that he wanted a 4244 Commitment for Reagan Logue?

A. Correct.

Q. And what, if anything, did you do or tell Mr. Blask then?

A. I told him exactly what had transpired. I told him that we had arrested this young man, that he had cut himself on the arm, and had been committed to the hospital, and Marvin had told me that he intended to bring up the matter of his mental competency at the time of arraignment, would you just as soon do it now and see if the Court would have him committed for observation under a 4244. And he said, he said, "I see nothing wrong with it," and he and I both went to Judge Connally, and Judge Connally readily agreed to issue a Writ, I told him all about the situation—

Q. —You told Judge Connally about the situation?

A. Yes, sir.

Q. In his Chambers?

A. Yes, sir.

Q. Did the Judge indicate that he would sign the Order?

A. Yes, sir, he did.

[513] Q. You didn't actually see him sign the Order at that time, did you?

A. No, sir.

Q. Could you tell us something about the mechanical procedure that the, that you have known in your past concerning the formal execution of these orders with Judge Connally?

A. You mean the drawing of the Writ, or the execution of the Writ, or—

Q. —Yes, sir, what I'm driving at is, he indicated that he would sign the Order, but I think that the Order itself shows a subsequent date, why would that be?

A. The Order itself would have been drawn by the United States Attorney's Office, and would be submitted to the Clerk, which, in turn, would have been handed to the Judge. He would have signed it, and we probably would have received copies of the, certified copies from the Clerk.

Q. So the actual date that might be on the Order might be a time later than when you received information that the Judge said he was going to sign it?

A. Yes, sir, it might be the same date, or it might be a subsequent date.

[514] Q. Now you, together with Mr. Blask, went to see Judge Connally. Was that very shortly after the conversation that you had with Marvin Foster?

A. I am sure it was. It was either during a morning recess or the noon recess, one of the two.

Q. It was on the same day?

A. Yes, sir.

Q. What did you do in connection with this case

after you were with Mr. Blask in Judge Connally's Chambers?

A. I don't know that I physically did anything. I am sure that I probably advised Mr. Bowers during one of our conversations that the Judge had agreed to issue a 4244 Commitment Order, and that he might advise Mr. Foster so that he wouldn't be waiting for Mr. Blask to call.

Q. Now during this time, that Marvin Foster called requesting the 4244 Commitment and the time that you went with Mr. Blask to see Judge Connally, this was at a time when it was your information and knowledge that the boy was in the hospital?

A. That is correct, yes, sir.

Q. Now did you subsequently telephone Mr. Bowers and give him any instructions?

A. Yes, after having received the phone call from [515] Mr. Slocomb, I know that Mr. Bowers had also been in contact with Mr. Slocomb—

Q. —What was the content of your telephone conversation with Mr. Bowers?

A. I told him that I had made arrangements to remove the boy back to the jail; that I had, actually I had tried to call him and was unable to find him, I was unable to locate him, and then I had called Mr. Lowrance, the Chief Jailer, at the Nueces County Jail, and had told him that we were preparing to move this prisoner back to the Nueces County Jail. And if he thought that they had a safe place to keep him, and he assured me that he did, and I advised with him concerning the measures that I wanted taken.

Q. Why did you indicate to him that you wanted a safe place for this boy?

A. Well, because I, I, I told him he had suicidal tendencies, he had cut himself, and I told him, "You will not have to hold him long, we intend to move him in a very short time to an institution, but we want to get him back into the jail, we want a safe place to keep him and make sure he is safely kept until such time as we can pick him up and transfer him to an institution."

[516] Q. This was your conversation with Mr. Tom Lowrance, is that correct?

A. Yes, sir, and I asked him if he had a cell available that was readily available and could be kept under surveillance, and that he would keep it, clean the cell thoroughly, make a thorough inspection, and remove everything from the cell that this young man might possibly hurt himself with; that he place a mattress or a pad in the cell on the floor; and that he strip this young man when he went into the cell.

Q. What was Mr. Lowrance's reply?

A. He said, "Yes," he could certainly do that. Also, I, I, I had known Mr. Lowrance as an old officer here, who I knew had had as much or more experience than I ever had in this sort of situation, but I did go into details with him as to the things that I thought would be advisable, inspecting and stripping the cell, stripping the Defendant before placing him in the cell, and keeping close watch over him. I also suggested to him that it might be well to place trustees, either in the cell or outside of the cell near where they could observe him.

[517] Q. Then did you issue some directions to Deputy Bowers?

A. Yes, I called Mr. Bowers and I told him about these arrangements, arrangements that I had made, at which time he protested, "Well, Gerald," he says, "I don't have a doctor's release yet," and I said, "Well, Blackie, I, I, I just talked to Mr. Slocomb about this same thing and I know, although he did not say so, from the tenor of his conversation, he was under the assumption that you had received a doctor's release for the prisoner or he would not have even gone into these instructions. You must have called him, what did you talk to him about, how could you have given him the impression?" And he says, "Well, I don't know." I said, "Well, let me tell you this—disregard this so far," I says, "I want you to make, go and look at the arrangements that Mr. Lowrance has made, I want you to personally inspect the situation yourself, I want you to inspect the jail, I want you to see that everything is in readiness," and I went over this sort of thing with him. And then, "I would suggest that you call the doctor and advise him that we do have this 4244, 4244 [518] Commitment pending, that we would like to move the prisoner back to the jail, and ask him if he will give you a release." And he said that he would. I said in the event that the doctor does not deem it advisable to give you a release, you are to do nothing, leave the prisoner exactly where he is and simply advise Mr. Slocomb.

Q. Now in your duties as Deputy U. S. Marshal, you come into contact with a number of jails in the South Texas area, do you not?

A. Yes, sir, in fact, all over the United States.

Q. And these jails are not all necessarily federal institutions, are they?

A. No, sir.

Q. But yet you put federal prisoners in them?

A. Yes, sir.

Q. What allows you to do that?

A. We have jail contracts with jails that are approved by the Bureau of Prisons. We tell them our needs and they, in effect, they negotiate contracts with various counties so that we may have federally approved jails. Some of them, there are variations in the things that we are approved for.

[519] Q. All right, then the method by which federal prisoners are kept, are allowed to be kept in these state jails, are the jail contracts, is that correct?

A. Yes, sir.

Q. Are all the jail contracts the same?

A. No, sir, we negotiate a jail contract with each individual county jail and Sheriff.

Q. How do you pay these jails?

A. Well, simply what we pay is on a per head basis, per head per day.

Q. Per head per day basis?

A. Yes, sir.

Q. And not a straight monthly—

A. —No, sir—

Q. —monthly retainer or salary or fee?

A. No, sir.

Q. Now when you put a federal prisoner in one of these jails, is he separated from the other prisoners?

A. No, sir.

Q. Is he subject to any special privileges from the other prisoners?

A. No, sir, and the Bureau of Prisons would frown very muchly, very muchly so if he received any [520] better treatment than any other prisoner in the jail, whether it be federal, state, county.

Q. Does it, or do you consider the jailer of each jail to have control and custody of each—

Mr. De Anda: —Oh, Your Honor, I object to what this witness considers, whether he considered the jailer to have custody and control because, first of all, it is a conclusion, the jail contract speaks for itself, and the Statutes speak for themselves, and I don't believe it is up to this witness to interpret, by giving his legal conclusion, as to custody and control.

Mr. Pain: Your Honor, this wouldn't necessarily be a legal conclusion. That is based upon his experience, his twenty-two years of experience as a Deputy U. S. Marshal, his experiences with all these different jailers in these situations, irrespective of the fact that it may differ from what the jail contract is, and I am asking him what his experiences have been in connection with the custody and control of the prisoners.

[521] Mr. De Anda: Further, Your Honor, his experiences is really not relevant; it is what about this particular prisoner, the one that we are talking about, and unless it applies to this prisoner, it would be irrelevant and immaterial. I still maintain my objection as being, it being a legal conclusion as to the effect of it or the status of the, of the jailer of



the Sheriff's Department, I don't think this is a question of law, it's based on the facts and on the Statutes.

The Court: Well, I'm going to overrule the objection.

Mr. Pain: I forgot my question, would you please read it back, please, ma'am?

(The following question was read back by the Court Reporter and is as follows: "Does it, or do you consider the jailer of each jail to have control and custody of each—")

[522] By The Witness:

A. He does have actually physical control and custody of the prisoner in there, anyway, and in another sense, of course, we retain control over the prisoner.

Q. Now on various times and occasions, you have to go up and get these federal prisoners and to see them on occasions, do you not?

A. Yes, yes, sir.

Q. Do you feel obligated to check, check in with the jailer when you do?

Mr. De Anda: These questions are very leading and suggestive in form. I haven't objected up to now because it was not, I felt not on relevant matters, but I think now it's getting down to some meaty problems here, and I would prefer that he not lead the witness.

Mr. Pain: I will attempt to rephrase my question a little bit better, Your Honor.

The Court: Rephrase it.

Mr. Pain: All right.

By Mr. Pain:

Q. Have you had occasion to visit federal prisoners in these jails?

[523] A. Yes, sir.

Q. And what is the procedure that you go through when you do so visit?

A. Walk into the jail and say, "I want to see this prisoner so and so."

Q. If the jailer would say, "No, you can't see him," what, what would you do?

A. I would immediately ask why not.

Q. If the jailer said, "You can't go upstairs and see him," what would you do?

A. I would ask why not.

Q. And have you ever had the occasion to have that happen?

A. Yes, sir, I have.

Q. Then how would you see the prisoner?

A. I didn't see the prisoner. I thought the man's reasons were very good and I agreed with him and I left.

Q. Do the federal prisoners receive any different food than the state prisoners?

A. No, sir.

-Q. Are they subject to the same rules and regulations?

A. Yes, sir.

Q. And who makes those rules and regulations?

[524] A. The Sheriff's Department.

Q. Are they subject to the same visiting hours?

A. Sometimes they are, sometimes they are on staggered days in a jail which may, half of its population may be federal prisoners, and there will be one visiting day for federal prisoners and possibly another visiting day for state prisoners, but—

Q. —Who sets up these hours?

A. The Sheriff.

Q. Do they wear the same clothes, same clothing, they, meaning the federal prisoners, do they wear the same clothing as the other prisoners?

A. Yes, sir.

Q. And they have the same bedding and other arrangements?

A. Yes, sir.

Q. And who makes that determination?

A. The Sheriff.

Q. From your handling of federal prisoners in these jails, have you ever had suicide attempts?

A. Yes, sir, many of them.

Q. How are you ordinarily notified of this?

A. I am usually called from the jail.

Q. By one of the jailers?

[525] A. Yes, sir.

Q. What is the first thing you tell them?

A. I ask him, "Have you called the doctor?"

Q. Then what do you do?

Mr. De Anda: Your Honor, I'm going to object to all of this matter, what he usually does when he has

suicidal attempts; I don't see the relevancy of it at all, Judge.

The Court: I agree with you, I don't think there is any relevancy as to what he does himself in connection with suicide attempts, and in other instances, when he wasn't actually the one on the ground in connection with this one.

By Mr. Pain:

Q. Now you have had some of your federal prisoners taken to hospitals as a result of injuries received in the jail, have you not?

A. Yes, sir, you mean by others, other than Deputy Marshals or myself?

Q. Yes, sir.

A. Yes, sir, uh-huh.

Q. And what is the first thing that you are concerned with, if anything, when you find out [526] that one of these prisoners has been taken to the hospital?

Mr. De Anda: Your Honor, again, I don't see the relevancy of all this testimony. He may be trying to get something, I don't know, but I know what the matters are that are being presented and I don't think they are relevant at all to this case.

The Court: Well, I think maybe, I don't know because I am not pre-judging any of the questions of law, but I think perhaps custom may have some relevancy, that in the course of years of experience these have been handled in a particular way.

Mr. De Anda: All right, sir.

By Mr. Pain:

Q. What is the first thing that you do ordinarily?

A. I try to find out the extent of the problem, if the prisoner is going to be committed to the hospital; if he is going to be committed to the hospital, how long is he going to be there; if there is any chance that—

Q. —Who do you talk to on this?

A. Usually the doctor, the jail physician.

Q. The doctor that admitted the prisoner to the [527] hospital?

A. Yes, sir.

Q. And you find out from him how long he's going to be there?

A. Yes.

Q. Why is it that you are interested in that?

A. For several reasons. The first one is, the security of the prisoner, of course, we do not want him to escape; secondarily, we want to move him back into jail for that reason, and also to save expense, to save the taxpayers money.

Q. So then (do you get the, when you get the prisoner back from the hospital to the jail, you talk about a release, then, to the doctor, is that correct?

A. Yes, sir, in every instance. Of course, he is the doctor's responsibility, we can not move the prisoner without the doctor's okay.

Q. And you, yourself, have taken many prisoners back from the hospital to the jail in such situations as that?

A. Absolutely, yes, sir.

Q. And have you ever done so without a doctor's release?

A. Never, sir.

[528] Q. Would that be against your rules and regulations?

A. Yes, sir, absolutely.

Q. What do you do in the event that you want the prisoner back, but the doctor will not give you a release?

A. The prisoner stays in the hospital.

Q. Do you ever try to see if you can, he can be transferred to a federal hospital?

A. Yes, there would be occasions when we could possibly have a doctor examine a prisoner and say, "This man is going to need surgery," or some such situation, and we would ask him, "Well, is it an emergency at this time, is there a chance that maybe it could wait for a week or ten days, something like that," and if he says, "Yes," well, then, if he does need surgery, and will need it within that time, then we would try to take steps to move him to a federal institution so the surgery could be done there in the institutional hospital. Again, to save the taxpayers expenses.

Q. But still would you take him from the hospital without a release?

A. No, sir. I might say also, that in all the jails we have, we have a jail physician; the [529] contracts with, with every jail in this district, include the provisions that the county furnish a physician. In Webb County we have a federal physician who is paid a flat fee and then plus fees, fees and expenses

if he has to do anything other than make visitations in the jail and prescribe.

Q. But a prisoner uses his own private physician if he wants to, can he not?

A. No, no, sir, not when he is in our custody, he should not. We oftentimes, we have had this question on occasions; usually the way I handle it is, I say, "You will see the jail physician, and if he deems it necessary, he will call your physician." And the doctor on many occasions does call a prisoner's private physician, if he thinks there is reason to do so.

Q. Now how long were you Supervisory Agent over Deputy Bowers?

A. Ever since he went to work for us.

Q. And how long was that, do you remember?

A. Mr. Bowers worked with us, I believe, some eight years.

Q. And you—

A. —'62 or '63, something like that, '62 or '63 [530] when he went to work.

Q. Several years anyway?

A. Yes, sir.

Q. In your capacity as his Supervisor, you were familiar with the methods and the manner in which he handled many of his prisoners?

A. Yes, sir.

Q. Did you ever have any occasion to criticize him on the handling of his prisoners?

Mr. De Anda: Time out, Your Honor, I object to that.

The Court: And I will sustain the objection to that.

Mr. Pain: We pass the witness.

[531] CROSS EXAMINATION

By Mr. De Anda:

Q. Who is your jail physician here in Corpus Christi?

A. Dr. B. B. Grossman.

Q. Did you contact Dr. Grossman, or did anyone contact Dr. Grossman with reference to this case, Reagan Logue's case?

A. I did not. I didn't know until after Mr. Logue was dead that Mr. Grossman had not been the attending physician in the hospital. I was—

Q. —I see, you were under the impression he was one of the physicians involved?

A. Yes, I don't know why I had that impression, but I certainly was.

Q. All right, but now you know for a fact that he had absolutely nothing to do with this, and was not called by anyone, to your knowledge, connected with the Government?

A. That's correct, I found out, I found that out shortly thereafter in questioning Mr. Bowers.

Q. All right, I believe you testified, Mr. Jones, that in taking prisoners to the hospital, and for treatment, maybe suicide efforts, or maybe [532] something else, it is not an uncommon occurrence?

A. It is not an everyday occurrence, but I would say in my twenty-two years experience, I have



handled no fewer than fifty persons. Now you are talking about suicide attempts?

Q. No, I'm talking about people having to go to the hospital for anything.

A. It is not a common occurrence.

Q. Well, numerically it is not, but I'm not talking about the numericals, you mentioned fifty suicide attempts—

A. —I would say that I have handled no fewer than fifty, possibly as many as a hundred people who have cut themselves in the jail.

Q. And who required medical attention?

A. Yes, sir, required a few sutures.

Q. And then, of course, there have been, I presume, people that were in jail that did not attempt suicide, but required hospitalization?

A. Oh, yes, yes, sir.

Q. These would be almost, at least, as numerous as suicides, to put it in kind words for our jails—

A. —No, sir, I am afraid that is not the case.

Q. Okay, most emergencies go to the jail, go to the hospital from the jail, they do so because [533] they attempted suicide, at least the federal prisoners?

A. I would think there is probably a greater percentage of them who cut themselves.

Q. All right, in any event, this is handled by, when the man goes to the hospital, he stays in the hospital until the doctor releases him, then you put him back in jail?

A. Now what do you mean, you say this is handled—

Q. —Well, isn't, isn't this the way, isn't this the uniform invariable way in which this is done, that

the man is taken to the hospital when necessary and then not removed from the hospital until released by the doctor?

A. Yes, that's a fair statement.

Q. Have you known of any case where it was not done that way?

A. No.

Q. All right, and then we might accept this as the absolute, no exception practice in the Marshal's Office?

A. Getting a doctor's release prior to removing—

Q. —Yes.

A. Yes, sir, absolutely.

Q. And I am sure, then, that Mr. Bowers, you [534] supervised him, that he also had an occasion to take an attempted, attempted suicides to the hospitals as well as perhaps others?

A. Yes, sir.

Q. Who required hospitalization?

A. Yes, sir.

Q. So actually there was nothing to this, in a suicide case, ordinarily, to cause a great deal of turmoil or disturbance in the Marshal's Office, it is something that happens and you have to take care of it.

A. That is true.

Q. But in this particular case, there was a great many number of, although the practice is settled and undisputed, there was a great many conversations between you and Mr. Bowers and Mr. Slocomb about the removal of this man from the hospital?

A. I don't know that there were a great many. Mr. Slocomb and I had one conversation about the re-

removal of him, and Mr. Bowers and I had one conversation.

Q. You described several conversations with Mr. Bowers.

A. Yes, but they were not all concerning the removal [535] of the patient.

Q. All right, but apparently arrangements were made for the removal of the prisoner to jail before the doctor concurred that this should be done?

A. That's correct, I made the arrangements with the jail under the assumption that a release had already been obtained. I got this assumption from Mr. Slocomb's conversation with me.

Q. All right, there were several people talking back and forth, and then somewhere you got the assumption that the doctor had given a release?

A. Yes, sir.

Q. Just like you had the assumption that somewhere, somewhere that Dr. Grossman was involved?

A. Well, he should have been.

Q. All right, and also there should have been a release before these arrangements, so I think that might be a fair way that you got the assumption, that you were sitting there making arrangements to get this fellow back in jail and trying to find a safe place for him, and you were going through all of these gymnastics assuming the doctor had, had agreed to it, that it could be done?

[536] A. That a release would be given.

Q. Had been given?

A. I'm sorry, I'm afraid I don't understand your question, Jim.

Q. In other words, these things that you were do-

ing were not done at the doctor's suggestion, you were just doing them because, under the circumstances that were related to you, you you knew that this man had suicidal tendencies and was apparently committed toward taking his own life if the opportunity presented itself?

A. Well, I wouldn't say that I had made that assumption, no.

Q. Well, it seems to me that in your conversation with Mr. Lowrance, as you have described it, and I think also from what Mr. Slocomb says here in his deposition, and we read that in your presence, that you set up several rules there for Mr. Lowrance to follow, I believe you referred to them as suggestions.

A. Uh-huh.

Q. As to how to keep this particular prisoner.

A. Yes, sir.

Q. Now those rules that you gave Mr. Lowrance were given because you knew that that was the only [537] way to safely keep the prisoner?

A. That's true and correct.

Q. If those rules were not followed, then it would be unsafe to keep this man in jail whether the doctor released him or not?

A. That's true and correct, if he did have intentions of committing suicide.

Q. Yes, sir, well, there is no question about that, is there?

A. There is no question that he did.

Q. All right, and he had tried it before and, and, I believe, as I listened to Mr. Foster's testimony and Mr. Bowers' testimony, everyone indicated they were gravely concerned that this youngster might do exactly this, is that right?

A. Yes.

Q. And, of course, these concerns were expressed to you in your conversations with Mr. Bowers and Mr. Foster?

A. Yes.

Q. And as a matter of fact, you made certain comments to the Court, or at least Mr. Blask did in your presence, that were talked about, that led Judge Connally to sign an Order, that he had reason to believe or thought the United [538] States Attorney had reason to believe that the Defendant may be presently insane or mentally incompetent?

A. Mentally incompetent was what he used. Now I gathered several things from the information that was given to me.

Q. Well, but all I am asking you is, it was based on what you told Judge Connally, and what Mr. Blask told Judge Connally, that Judge Connally signed this Order stating that the man may be presently insane or otherwise mentally incompetent?

A. That is true.

Q. All right, and now, now Mr. Slocomb, in his deposition, and I want to be sure we all agree on this now, in testifying with reference to the messages that he received, telephone conversations that he received from you and Mr. Bowers, makes this statement in his deposition, this is on Page 5, George, if you are interested—"The psychiatrist informed that the boy was withdrawing from the use of LSD, that the patient had suicidal tendencies, and the psychiatrist recommended to Deputy Bowers that we leave the boy in the hospital with guards until such time [539] as we could commit him to a federal institution."

This was your, your understanding of it, too, Mr. Jones, in your conversations with Mr. Bowers and Mr. Slocomb?

A. It was after he had seen Dr. Gwin for the first time in the hospital that morning, yes, he conveyed that information to me.

Q. All right.

A. He didn't convey it in exactly that sequence, no, but he said that Dr. Gwin had said that the boy was suffering from, actually a psychosis brought on, brought about by the use of LSD, glue, and peyote, and marijuana, and he mentioned all four of the agents there.

Q. All right, well, that would make it even worse, wouldn't it?

A. Well, it's quite possible, yes.

Q. All right, in any event, you, at that time, knew that the doctor had recommended that, that the youngster remain in the hospital until committed to another institution?

A. Yes.

Q. All right, then somewhere along the way, you were left with the erroneous impression, or you got the erroneous impression that the doctor had [540 released the young man to go back to jail, the magic word, "release", take him out—

A. —Yes—

Q. —and so you made these arrangements?

A. Uh-huh.

Q. Which you considered to, to comply with your duties to safely keep this man?

A. Yes.

Q. And you told Mr. Lowrance that he ought to have

this mattress on the floor, have no movable or removable objects in the cell, that a trustee ought to be sitting in the cell with him, or two, or one right there where he could watch him continually, and also you indicated, I think, that he was not to have any clothing?

A. That's correct.

Q. Or wearing apparel on him, other than perhaps shorts, something like that, I guess?

A. That's true.

Q. And you made these requirements because this is what it took, based on your experiences?

A. Yes.

Q. And recognizing the problem that you had to, to keep this boy from hurting himself?

A. Correct.

[541] Q. And actually, in fact, I suppose if those things had been done, the boy wouldn't have hung himself?

A. There would have been no way for him to have hung himself if those had been done.

Q. It was because those things were not done that this happened?

A. Yes.

Q. Now as far as the release, as I understand it, it came back as a shock to you when you talked to Mr. Bowers in a subsequent conversation, and after all these arrangements had been made, it came as a shock to you that he could have, that the doctor had, in fact, not changed his opinion, that he still thought the man, as far as you knew, should remain in the hospital until committed to another medical facility?

A. No, it surprised me when Mr. Bowers told me that he did not have the doctor's release because I knew Mr. Slocomb would not have called me unless he was under that impression, and the only place he could have gotten it was from Mr. Bowers.

Q. Well, that eliminates you and Slocomb, but that leaves Blackie. All right, now, so then you [542] told Mr. Bowers, "All right, now we have made these arrangements, we've got this situation, we've got this Judge's Order committing him to a hospital; now you go get that release from the doctor," or words to that effect?

A. I told him to call the doctor and tell him of the arrangements that had been made in their entirety; to tell him that we were in the process of getting the 4244 Commitment; that the prisoner would be moved sometime within the near future, probably, possibly no longer than three days or a week at the most; that these arrangements had been made, and a cell had been stripped, and the way the prisoner was to be handled and so forth, and to ask him if he would give a release under those circumstances.

Q. But, and then Mr. Bowers, apparently in his conversation with the doctor, as I read Mr. Bowers' deposition, and also from the doctor's own testimony, when it got to the doctor, the Judge had ordered all this. Did, well, would you know anything about that or did you have any conversation with Mr. Bowers as to exactly what he told the doctor?

A. No, I did, did not.

[543] Q. All right.

A. But I don't believe Shannon Gwin would get



any wrong ideas; we use him quite often as a Court psychiatrist.

Q. All right, well, I'm sure he didn't. Now let's talk a little about, let's talk a little bit about federal prisoners in these jails. Of course, as you pointed out, when you put a man in jail, you turn him over to the Sheriff, the actual control of his body is with the Sheriff?

A. Correct.

Q. Or whoever is operating the jail, whoever that happens to be?

A. Yes, sir.

Q. But it is understood by everyone, isn't it, that this man is your prisoner?

A. Yes, sir.

Q. And by golly he leaves that jail when you want him to leave?

A. Correct.

Q. And he is handled the way you want him to be handled, if there is any special variations surrounding that, that requires special handling?

[544] A. There are a few exceptions. Some jails have some real good rules and maximum security cells. I know the Hidalgo County Jail is that way now and has been for a number of years. I don't care who you are, you are not going to remove a prisoner from the maximum security cells after 7:00 o'clock in the evening; that goes for the Marshal, too, even if it's his own prisoner.

Q. And you know that rule when you put the man in there?

A. That was the one that I was turned down on for the first time.

Q. All right, that is a sound rule, and—

A. —Yes, sir—

Q. —one that you commend, so you understood that is the rule and that's the arrangement under which you put the man in jail?

A. Yes, sir, and it was for a very good reason.

Q. If you didn't recognize that rule and didn't think it reasonable, you simply wouldn't use that facility or make them change the rule?

A. I don't know whether I could or not.

Q. Well, I said, they can't make you put your jail, your prisoners in there?

[545] A. No, but it would be very, very unhandy for me to put them anywhere else, Mr. De Anda, I'll tell you.

Q. But this rule, and other rules, do they have any such rule in the Nueces County Jail?

A. I don't know; I rather doubt it.

Q. Have you ever had the—the Nueces County Jail in its operations, that's the jail we are talking about?

A. Yes.

Q. Balk on anything that you wanted done with a single one of your prisoners?

A. No, sir.

Q. As I understand it, the procedures and the protocol, they were desperately trying to get ahold of the Marshal when this man tried to cut himself?

A. I am sure they probably were.

Q. And when he got to the hospital, the Marshal took over the management of the prisoner?

A. Correct.

Q. And there was no argument about that?

A. No, ordinarily no one can remove a federal prisoner from the jail except a Marshal.

Q. I see.

[546] A. Except in emergency situations.

Q. All right, that's because you really have control over the prisoner?

A. Yes, in that respect, yes.

Q. All right, and the, and the jailer, the jail is an accommodation to and service that is available to you?

A. Yes, that is—

Q. —But there is no doubt about the fact that you are the person that has the natural custody of him and that the, that the jailers are acting at your suggestions and trying to accommodate you in whatever way you see fit as regards that prisoner?

A. Well, of course, they are charged with the keeping of the prisoners, the physical custody of the prisoner, yes, sir.

Q. Like I say, when special circumstances arise that deviate from the routine, deference is paid to your suggestions and what you want done?

A. As long as they are reasonable; we always try to be reasonable, and the Sheriff, of course, is also reasonable with his rules.

Q. Certainly, I understand that, and if he ever had a rule that you couldn't live with, you [547] didn't think was right, you would certainly make that known to the Sheriff and, and let him know how you felt about it?

A. Yes, sir, and if he doesn't have some rules that I think he ought to have, occasionally I will go to him and suggest that he implement them.

Q. As far as your prisoners—

A. —Sometimes he does and sometimes he doesn't.

Q. But either the rule is something you can live

with and accept as being reasonable, or you could remove the prisoner?

A. Yes, we could. He could also tell us to remove the prisoner if he took a notion.

Q. Surely, but to make a long story short, the arrangements for this man, you gave to Mr. Lowrance as what you wanted done with the man when he was returned to jail?

A. Yes.

Q. And I assume Mr. Lowrance gave you every indication that he, that these arrangements would be followed?

A. Yes.

Q. And had he, had he given you any indication he would not do what you suggested, you probably would not ever have removed him from the [548] hospital?

A. That is correct, yes, sir. I think probably every suggestion that I gave him is what is done with the handling of mental patients in every jail in Texas that handles mental patients.

Q. Well, except one, unless you do not keep, have a cellmate, or keep, or a, some trustee sitting there watching a man, like you suggested in this case?

A. I have on several occasions, yes, sir.

Q. You have on several occasions, but this is not the absolute, irrevocable, without exception rule?

A. No, I wouldn't say so. In every case it would depend on the circumstances.

Q. All right, and the circumstances that were given you in this case—

A. —Yes—

Q. —and the facts as you knew them to be were

such that you thought this was a, was a safety requirement?

A. Not necessarily so, but I thought that it might be something that he might use to keep, to keep this prisoner under observation.

Q. All right.

A. There are other things that can happen to [549] prisoners that are in isolation cells other than—well, they are able to get things from the outside, on occasion.

Q. All right, but what I'm saying, in this case, regardless of the whys or wherefores, you thought this was one of the precautions that was needed to be taken?

A. I did advise it. I don't know that I actually advised him, but I told him, I suggested to him that it might be well to place a jail trustee either in or near the cell.

Q. All right, the object being to keep the man under observation?

A. Surely, yes, sir.

Q. All right. Mr. Slocomb made the same comments in his deposition, if you recall—

A. —Uh-huh.

Q. Right here is what Mr. Slocomb said, Page 7, "Deputy Jones further advised me he had requested the jailer to place a couple of trustees in or near by the cell to observe the boy—"

A. Uh-huh.

Q. So there ain't no question but what you made a suggestion?

[550] A. Yes, I know I did.

Q. All right, and I believe you heard the reading

of Mr. Bowers' deposition, and he said he would consider it unsafe and would not have agreed to, for the youngster to be in jail, but for these rules including this particular one that I am emphasizing right now, because it was the one that was breached, to keep the boy under observation and to have someone in the cell with him.

A. No, I didn't hear that, I don't know.

Q. All right.

A. I may have missed it, though.

Q. Okay, sure, I miss a lot of things myself.

A. Sure.

Q. And if the release that was obtained from the doctor, this magic thing, go ahead, I will give him back to you, was done, either by applying pressure on the doctor to do it, or because the doctor was ill advised and left with the impression that the Judge had ordered it to be done, then that would not be in keeping with your usual procedures, assuming that was done?

A. Well—

Q. —I know you are going to say it wasn't done, [551] and that's fine—

A. —I have never been able to pressure a doctor yet, Jim.

Q. I'm not saying you did it, but now I am saying that it happened in this case.

A. Uh-huh.

Q. Either through inadvertence or for whatever reason there was, that would not be in keeping with your procedures?

A. No.

Q. And this was an unwise thing to do?

A. Well, I don't quite follow you.

Q. Well, it would be a dangerous thing to do, to let the medical judgment, the Deputy Marshal be injected into the medical judgment of the doctor and be determinative of whether or not a man stays in the hospital, that's what I'm getting at?

A. I don't know, you might have a Deputy Marshal that was almost a doctor, you can't tell.

Q. Well, I didn't—let me ask you this—did Blackie Bowers have any medical—

A. —No, he did not—

Q. —training?

A. No, he did not, certainly not.

[552] Q. All right, assuming that Mr. Bowers had either intentionally, or unintentionally, left the doctor with the impression that the Judge, Judge Connally had ordered this youngster's removal to jail, first of all, that would not be correct, would it?

A. No, sir, it would not.

Q. And secondly, it would not be in keeping with the Marshal's Office procedures and practices, would it?

A. No, sir.

Q. And if, and it would be unwise, a dangerous thing to do, wouldn't it?

A. It certainly would be stupid on top of it.

Q. All right.

A. And I don't think you will find any doctor who is going to let any Judge tell him who to put in jail.

Q. All right, I'm just saying, as far as your office is concerned, this would be terrible?

A. Yes.

Q. Mr. Jones, did you, did you make any statements

to anyone shortly after this happened, to the F.B.I., or anybody, about this matter?

A. Yes, sir, I did.

[553] Q. Written statements?

A. Yes, sir.

Q. Have you been provided with a copy of that?

A. Not the statement that I made to the F.B.I. within a very short time after this incident happened. After I made the statement to the F.B.I., I wrote my report which was sent to our department in Washington.

Q. Do you have a copy of that?

A. Do I have a copy of that? Yes, sir.

Q. I'm sure you read it before testifying to refresh your memory?

A. Yes, sir, I refreshed my memory from it while I was testifying.

Q. May I see that, please, sir?

A. Yes, sir, incidentally, that's the only copy I have, Mr. De Anda.

Q. All right, I will give it back to you.

A. Okay.

Q. I don't want to take the time to review this; you're going to be around during the Court trial, and if anything comes up that I want to ask you about it, I can.

Mr. Pain: I think I gave you a copy of that.

[554] Mr. De Anda: No, sir, not Jones.

The Witness: Yes, sir, I will be around.



By Mr. De Anda:

Q. Now one other matter that I want to point to, I want to mention to you and see if you concur—I believe in Mr. Slocomb's deposition he states that had Mr. Logue, had Reagan not killed himself, that within twenty-four hours after the Commitment Order had been signed by the Judge, that your office, or the Marshal's Office could have had this youngster on his way to the hospital.

A. Mr. Slocomb said that we could have moved him within twenty-four hours?

Q. I want to be fair with you, I think so, let me see what I read—well, here's exactly what it is, that I was referring to, "If we had had the Court Order in hand, and the patient in hand, available for immediate transfer, I think that by making a long-distance telephone request to the Washington offices, in that case we could have commenced the trip possibly within twenty-four hours after making the calls."

A. We could have probably gotten a designation on him and would have been ready to. Now now [555] whether or not we had the man power available to actually commence the trip or not, I do not know. We were tremendously busy in the District, we were short-handed, we had eleven men at that time and we needed about forty. We already had Mr. Schorre out of the District, we were absolutely tied up in Laredo, the two of us there, we could have used three more, and I don't know where we would have gotten the man to move him. We may have, I don't know.

Q. Well, will you agree with Slocomb or don't you?

A. I always agree with Mr. Slocomb. If Mr. Slocomb said that he could have and would have moved a man within twenty-four hours, he would have moved him one way or the other.

Q. All right, in other words, somehow or other you would have come up with a man?

A. Yes, we may not have, we may have called in a man from another District.

Q. All right, now there is absolutely nothing in your rules and regulations that would have prevented you from moving this man directly from Memorial hospital to a medical facility if it was necessary, isn't that right?

A. Do you mean in one continuous movement?

[556] Q. Well, however, I don't know how many movements you would need, it would depend on where you were going and how you got him there, but I mean there was no necessity in confining him back in the County Jail to get him to Springfield?

A. There, we would have had to confine him in jail before we got in Springfield, I mean your trip was that long.

Q. Yes, and, and you would have had people with him?

A. Yes.

Q. And that would have been handled however it was necessary to handle?

A. Yes, sir.

Q. But what I am getting at, there was no magic in taking him back to the Nueces County Jail, that wasn't a requirement for you to start your trip to Springfield?

A. No, sir, I wasn't dealing in magic.

Q. All right, in other words, you could have, you could have taken him had the doctor not released him?

A. Yes.

Q. Had the doctor said, "I'm not going to, I'm not going to release him until you just walk [557] over my dead body," and you would have left him in jail, I mean, I'm sorry, in the hospital? You could have taken him from the hospital to, to your federal medical facility?

A. We couldn't have taken him to the medical facility without the doctor's release.

Q. I mean if he had permitted you to do that, you could have?

A. Yes.

Q. The reason I am asking you this is, there was something in the deposition here that disturbed me about the necessity of taking him back to jail; there was no need to take him back to jail if the situation didn't call for it?

A. I lost you.

Q. It's so easy. All right, strike that question and let me try again—if the judgment had been such that he couldn't be removed to the County Jail because the doctor didn't want you to, and said, "I will only release him if you will take him to Springfield," then you could have done that, you could have taken him directly from Memorial Hospital to the Springfield facility?

A. Oh, yes, sir, sure.

Q. All right.

[558] A. It would ,of course, there would have been an overnight stop somewhere between here and—

Q. —Yes, sir—

A. —between here and Springfield, at least one, even if we had hauled this prisoner and no other, there would have had to be one stop, and incidentally, I had made plans for this same situation.

Q. I understand that. Now while this man is in your custody because of the Court processes, no matter who actually has him, you consider him a man in your custody, do you not, Mr. Jones?

A. Yes, sir.

Q. Or your office, is that right?

A. Yes, sir.

Q. And you feel like you are responsible for him or make arrangements to see that he is properly kept?

A. Yes, however, if he escapes from the jail, the responsibility is not charged to you, it is charged to the jail; occasionally we put the jailer in jail.

Mr. De Anda: I pass the witness, Your Honor.

The Court: Mr. Pain?

[559] REDIRECT EXAMINATION

By Mr. Pain:

Q. On these 4244 Commitments, where are the prisoners ordinarily taken?

A. Actually, actually they may be taken to almost any institution, but ordinarily they are taken to the Medical Center at Springfield.

Q. Springfield, Missouri?

A. Yes, sir, at Springfield, Missouri.

Q. Have you made that trip very often?

A. Many, many times, yes, sir.

Q. From Brownsville?

A. Yes, sir.

Q. From Corpus Christi?

A. And from Laredo and from Houston.

Q. How far is it?

A. From where?

Q. From Corpus Christi to Springfield?

A. From Corpus Christi to Springfield—it is just under a thousand miles, it would be about nine hundred something, a little over.

Q. By what mode of transportation do you ordinarily get there with a prisoner?

A. By automobile.

[560] Q. How long would it take you to drive it?

A. Two days minimum, and I would have to crowd it both days.

Q. If you were to start early in the morning from Corpus Christi to go to Springfield, where would you stop?

Mr. De Anda: Just a minute, Your Honor, I don't see the relevancy of that at all.

The Court: What is the relevancy?

Mr. Pain: Well, Your Honor, I want to point out that he would, by necessity, have to stop overnight, and I want to see what he would do with the prisoner overnight.

Mr. De Anda: I would assume he would take good care of him. If he didn't, it would be very bad, but I don't see the relevancy of this.

The Court: I don't see any relevancy of that, of what you would do, I'm sure they would put him in some jail or take care of him some way, but I don't see the relevancy of it after you leave here on that trip.

By Mr. Pain:

Q. Have you had the occasion to have many mental [561] patients as federal prisoners?

A. Yes, I have had a number of mental patients as federal prisoners.

Q. And is it part of your ordinary course, ordinary course of your procedures to put them in jail before a hospital commitment?

A. Yes, sometimes they stay in the jail as a mental patient prior to the time that they are committed to the hospital.

Q. Prior to the time they are committed to the hospital?

A. Yes, sir.

Q. Now if there were a jail, a non-federal jail, with whom you had federal prisoners, that had a particular rule that you did not like, you could suggest a change, could you not?

A. Yes, sir.

Q. But would you have the power to change that rule?

A. No, sir, the jail belongs to the Sheriff, it's his baby.

Q. And if you could not change that rule, that you

did not like, is it accurate to say you would have two choices; one, you would have to put up with the rule, or two, you could remove your [562] federal prisoners?

A. In the jails that I actually do business with, I certainly wouldn't remove my prisoners from them, I couldn't.

Q. This would be about the only choice you would have?

A. Yes, sir, yes, sir.

Q. And you felt like you could put up with the rules?

A. Yes, sir, yes, sir.

Mr. Pain: Pass the witness.

Mr. De Anda: Your Honor, subject to some other cross examination that might develop because of this statement, I don't have any further questions of Mr. Jones.

The Court: All right, Mr. Jones, you may step down.

The Witness: Thank you, sir.

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WITNESS EXCUSED

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Mr. Pain: Call Mr. Tom Lowrance. He needs to be sworn, Carolyn.

[563] (Oath administered to the witness by the Deputy Court Clerk.)

TOM LOWRANCE,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Pain:

Q. Would you state your name, please, sir?

A. Tom Lowrance.

Q. And how do you spell your last name?

A. (Spelling) L-O-W-R-A-N-C-E.

Q. Where do you live, Mr. Lowrance?

A. I live in the Valley, close to Harlingen.

Q. How long have you lived there?

A. It will be two years in April.

Q. What is your occupation, what do you do now?

A. I am retired.

Q. And what was your occupation prior to your retirement?

A. I worked for the Sheriff's Office, County Jailer.

[564] Q. Here in Nueces County?

A. Yes, sir.

Q. And how long were you the County Jailer?

A. Over twenty years.

Q. And were you the County Jailer during the month of May, 1968?



A. Yes, sir.

Q. What were your duties as County Jailer?

A. Well, just to run the jail and see that everything is carried on.

Q. Take care of the prisoners?

A. Yes, sir.

Q. And to whom are you directly responsible?

A. The Sheriff, Sheriff Johnnie Mitchell.

Q. And was he the Sheriff during May of 1968?

A. Yes, sir.

Q. How long had he been Sheriff at that time, do you remember?

A. I believe it was about twelve or fourteen years, I wouldn't swear.

Q. Uh-huh, you've got a pretty good idea of the facts about this lawsuit, do you not?

A. Well, yes, sir.

Q. Do you recall that in May of 1968, a prisoner by the name of Reagan Logue was—

[565] A. —Yes, sir.

Q. What was the first thing that brought your attention to this particular prisoner?

A. Well, he was brought up and booked in jail.

Q. When he was first brought up—

A. —Yes, sir—

Q. —who brought him up?

A. I wouldn't recall just who brought him in when he was first brought in there, I don't—

Q. —And this was in May of '68?

A. Yes, sir.

Q. Did anything unusual happen after he was brought in?

A. Yes, sir.

Q. What was that?

A. Well, he cut his arm. (Indicating)

Q. Was it a very bad cut?

A. Well, I didn't see it at the time, when he first cut it, but—

Q. —How did you find out that he had cut himself?

A. Well, the turnkeys come down and said that he had cut it, and they sent him to the hospital. I wasn't there at the time that he cut it.

Q. Where were you?

A. I had just went home.

[566] Q. Now—

A. —I was off duty.

Q. What time of the day was this?

A. I'd say about, I'd say it was around 4:00 o'clock, 3:30 or 4:00 o'clock when I went home.

Q. And it was a short time after that, that you received this word?

A. Yes, sir.

Q. And one of the turnkeys called you and told you he had cut himself?

A. Yes, sir.

Q. What did you do then?

A. Well, I told him, they took him to the hospital and I told them to station a guard with him and keep guards on him, and try to get ahold of the Marshal.

Q. Did you go to work the next day?

A. Yes, sir.

Q. Did you have anything to do with Reagan Logue the next day?

A. No, sir.

Q. That you can recall?

A. No, sir, he was at the hospital.

Q. Did you get any, did you have an occasion to have a conversation with Deputy Marshal Gerald [567] Jones?

A. Yes, sir.

Q. And when was that in relation to when the boy cut himself?

A. It was the same day that they brought him back, the next day after he cut himself.

Q. The next day after he cut himself?

A. Yes, sir, he cut himself on the afternoon and the next day is when I talked to Jerry.

Q. Jerry Jones called you?

A. Yes, sir.

Q. What did he say?

A. Well, he said that they was contemplating on bringing him back up to the jail and wanted to know if we had a place to keep him and would take him back.

Q. And what did you tell him—

A. —I told him, yes, sir, if the doctor and they wanted him brought back, well, we'll take him.

Q. And was he then brought back to the jail?

A. Yes, sir.

Q. Was that after you had gone home that day or while you were still there, or do you remember?

A. When they brought him back?

Q. Yes, sir.

[568] A. I was still there. I waited until they did bring him before I went home that day.

Q. And would that have been the day of the 24th, or do you remember?

A. I don't remember the exact date that it was.

Q. And did you make any special preparations to receive this prisoner?

A. Yes, sir.

Q. What did you do?

A. Well, I cleaned the cell out, saw that there was nothing in there that he could possibly hurt himself with, or anything to that effect.

Q. Do you, did you have an ordinary procedure during that time to handle patients that you thought might be dangerous to themselves?

A. Yes, sir.

Q. And you carried out this procedure by stripping the cell?

A. Yes, sir.

Q. And doing what you just do?

A. Yes, sir.

Q. After he came back from the hospital into your jail, and you received him, what did you do then that day?

A. I went home shortly after that; I went home right [569] after that.

Q. And did you go to work the next day?

A. Yes, sir.

Q. At the jail?

A. Yes, sir.

Q. About what time did you get to work?

A. Oh, I always got down there about 5:30.

Q. In the morning?

A. Yes, sir.

Q. Now before you left on the prior day, did you leave any instructions to your jailers?

A. Yes, sir.

Q. And what were they?

A. To check him regular and to keep tabs on him, check him regular.

Q. And was this as a result of Mr. Jones' suggestions?

A. Yes, sir.

Q. And then you came to work the next day about 6:00 in the morning?

A. Yes, sir.

Q. And what did you do then?

A. Well, fed breakfast, and we just went on with the regular jail duties.

Q. Did you ever check on the prisoner yourself?  
[570] A. Oh, yes, sir.

Q. This particular prisoner?

A. Yes, yes, sir.

Q. Did you check on him that morning when you came in?

A. Yes, sir.

Mr. De Anda: Your Honor, this is rather an important matter, and I don't think he should lead the witness. He can ask the witness what he did without leading him.

The Court: All right.

By Mr. Pain:

Q. Did you have the occasion to, you, yourself, make any checks of this prisoner during that day?

A. Yes, sir.

Q. Could you estimate about how many times you may have checked on him?

A. Well, I would estimate I checked on him at least four times during the day.

Q. Do you recall the last time you checked on him?

A. Well, I don't know just what time of the afternoon it was, it wasn't too long before I went home, off of that shift that afternoon.

Q. What time did you ordinarily go home?

[571] A. I would go home between 4:00 and 4:30.

Q. Would it, well, could you approximate the time before you went home that you last saw Reagan Logue?

A. Oh, about an hour before I went home, I guess.

Q. Sometime around 3:00 or 3:30?

A. Somehting like that, yes, sir, I couldn't state positive about that.

Q. Did you talk to the boy?

A. Yes, sir.

Q. Did he seem to be in pretty good spirits?

A. Uh-huh.

Mr. De Anda: Your Honor, that's leading and suggestive, and I ask that Counsel be instructed not to lead the witness.

Mr. Pain: I will rephrase the question.

The Court: I think you had better be a little more careful.

By Mr. Pain:

Q. Did you have, have any impression of his demeanor when you talked to him that last time?

A. No, sir, he was all right.

Q. Did he talk to you very much?

A. No, sir, I didn't talk to him much, I just asked how he was doin', somethin' like that, and he [572] didn't have nothin' to say much.

Mr. Pain: We pass the witness.

### CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. Lowrance, I presume that you made a full report of this to the Sheriff?

A. Yes, sir.

Q. And did you ever make any sort of a written report yourself?

A. No, sir.

Q. Did you ever make any statement to the F.B.I., or anyone else, that you recall?

A. That, I don't recall anybody else.

Q. I know that you're hazy on your times, and I don't blame you for it—

A. —Yes, sir, it's been a long time, hasn't it?

Q. Yes, sir, how old a man are you now, sir?

A. I'm sixty-nine.

Q. Sixty-nine, let's see, that would have made you, again my mathematics—sixty-six, sixty-seven or sixty-six, about the time that this happened?

A. Yes, sir.

Q. And as I have a report here that the Sheriff [573] made, and I presume he made it after talking to you about it—

Mr. Pain: —Do you have another copy?

By Mr. De Anda:

Q. And according to this report, the Sheriff, or the Sheriff's Department made, it says, "From Sheriff Johnnie Mitchell—"

Mr. Pain: —Your Honor, before he proceeds any further, I wonder if I might have a copy of that. I do not have a copy, I have not been furnished with a copy of it.

Mr. De Anda: I will be glad to give you a copy, but this is the only one I have.

The Court: Would you rather identify it?

Mr. De Anda: All right, I'm just going to refresh his memory, I'm not going to offer it into evidence.

The Court: I don't know how you are going to refresh his memory from a report of the Sheriff, the Sheriff's Department.

Mr. De Anda: It is from the Sheriff's Department to Justice of the Peace, Peter Dunne, dated June the 4th, 1968, from Sheriff Johnnie Mitchell. Subject, Reagan Logue, Federal Prisoner. And in here [574] there is a mention made of the time that, that Mr. Lowrance saw the prisoner, and I just wanted to see if that is the last time and if this is correct.

Mr. Pain: Your Honor, I would like to take a look at that.

The Court: I think you are entitled to look at it before you read anything from it.



Mr. De Anda: I will be glad for him to read it; I'll be glad to give him a copy of it, Judge.

(Discussion held off of the record.)

Mr. Pain: Your Honor, I would object to Counsel's using this particular sheet of paper to—may I see it—to refresh any witness' recollection because of the fact that, that he has just read it, read into the record that it is addressed to Justice of the Peace, Peter Dunne, and from Sheriff Johnnie Mitchell, and this is not Johnnie Mitchell upon the witness stand at the present time.

The Court: He has seen it and knows [575] something about it?

Mr. De Anda: Yes, sir, I can use anything to cross examine a witness with; I am not impeaching him with it, but if I want to make any notes, or I can use anything.

The Court: Yes.

Mr. Bowers: Your Honor—

The Court: —You can ask him any question.

Mr. De Anda: Yes, sir.

The Court: Are you proposing to introduce it into evidence?

Mr. De Anda: No, sir, I don't think I could.

The Court: All right, I don't—

Mr. De Anda: —Unless they would agree to it, but I don't think, under the rules of evidence, that I can introduce it in evidence. I was just going to ask him some questions pertaining to the, to see if he would agree, if it was correct, and it might help him to refresh his memory, and if it helps him, all right, and if it doesn't help him, it just wouldn't help him.

Mr. Pain: May I ask him a couple of [576] questions on voir dire first?

Mr. De Anda: Your Honor, it's not a question of voir dire. I'm just going to ask him to refresh his recollection and—

The Court: —Here is the question in my mind about it, if it is something he doesn't know anything about, certainly you can ask him questions about it, I think you can say, "Well, if, if the report says thus and so, is that right, or is it wrong—"

Mr. De Anda: —That's what I was going to do—

The Court: —But while you are doing this, in effect, you are introducing the report in evidence.

Mr. De Anda: Well, I don't—

The Court: —That's the way it seems to me, like whatever you question him about, if you read it into evidence and asked him if that is right, you are

getting it in evidence indirectly where you couldn't get it in otherwise.

Mr. De Anda: Your Honor, let me point this out—the only thing there is, there's [577] one reference to Mr. Lowrance in this report as to the times he saw the prisoner, and I'm simply going to ask him, I am going to read that part to him and ask him if it is his recollection or not.

Mr. Pain: That's all right.

The Court: That's all right.

Mr. De Anda: Is that okay?

The Court: Yes.

Mr. Bowers: Could I suggest this in this matter, so it won't be read, why don't you simply show it to Mr. Lowrance and see if it refreshes his recollection, I think it would be proper to do it that way rather than to read it.

The Court: If he is familiar with it, why—

Mr. De Anda: —He might be familiar with it, I don't know. Let me ask him.

The Court: Ask him.

By Mr. De Anda:

Q. Mr. Lowrance, I want to show you a report which indicates it is from, that this is a copy ob-

viously of a report from, it's on the County of Nueces stationary, Johnnie Mitchell, Sheriff, [578] dated June the 4th, of 1968, and it is from the Sheriff to the Justice of the Peace, Peter Dunne, with reference to Reagan Logue, and I want you, are you familiar at all with the report?

A. No, sir, I never saw it.

Q. All right, but you did talk to Sheriff Mitchell after, after this happened and gave him a report?

A. Yes.

Q. All right, now all I want to ask you is this— is it correct to say that, would you agree with this statement, that on the afternoon of May the 24th, 1968, at approximately 3:00 P.M., subject Logue was talked to by Chief Jailer, Tom Lowrance, is that, do you, does that help you to pin a time down? You indicated earlier that you weren't sure of the time when you talked to this man—

A. —Well, I would say that that is, was in close range of it, but I wouldn't say that it was or wasn't, but I was there about that time, that I talked to him.

Q. Now this report does not indicate that you talked to Reagan at any other time, is that the only time that you talked to him?

[579] A. No, sir, I talked to him several times during the course of the day, in and out, going up there.

Q. You mentioned three or four times?

A. Yes, sir.

Q. All right, now but would this have been the last time?

A. Yes, sir, that was about the last time that I talked to him because I went home shortly after that.

Q. All right, now did you open, when you would

be up in the jail to look at these cells, as I understand it, there is a, of course, there is this mesh wire around this particular cell block, I will call it, this, the isolation cells—

A. —Yes, sir.

Q. And did you go inside the mesh?

A. Oh, yes, sir, every time I went up, I went inside of the mesh.

Q. All right, did you go inside of the cell?

A. No, sir, I never was inside of his cell.

Q. All right, whatever conversation you had, or you said, "How are you doing," as I remember?

A. Yes, sir, something like that.

[580] Q. And you say he did not respond?

A. No, sir, he never said anything.

Q. He never said anything?

A. No, sir.

Q. So whatever conversation it was, you did the talking?

A. That's about all, as far as conversation we had, and it was—

Q. —Yes, sir, I appreciate that, and then anything, any looking you did would have had to have been done through those little holes—

A. —Which I could see, yes, sir, which I could see.

Q. —around this metal sheet, the metal that makes up the cell?

A. Yes, sir.

Q. Now I believe that all there was in the cell was a mattress and a commode without a top on it?

A. That's right.

Q. But filled with water?

A. Yes, sir.

Q. Could you flush the commode?

A. Yes, sir.

Q. And also a basin?

[581] A. Right, right in front of the commode, yes, sir.

Q. And a hydrant or faucet projecting out of the wall?

A. Yes, sir.

Q. Now you have what they call the miscellaneous tank up there, Mr. Lowrance?

A. Yes, sir.

Q. And there were, if the testimony is correct, about twenty people up there in the miscellaneous tank?

A. I couldn't say about how many was in that miscellaneous tank, I wouldn't say.

Q. You just don't know?

A. I don't know. It's been too long.

Q. But there was no people, as I understand it, inside of those isolated cells?

A. No, sir.

Q. Other than the man up there in that one cell and that was Reagan Logue?

A. Yes, sir.

Q. That is correct?

A. That's right, yes, sir.

Q. And this miscellaneous tank that we are talking about has a metal partition, I think it's a metal partition, between it and the isolation [582] block?

A. Yes, sir.

Q. And it is impossible for any prisoner in the miscellaneous block to look inside or to see the people inside of the isolation cells?

A. Yes, sir, that's right.

Q. And particularly the isolation cell that Reagan Logue was in because it was furtherest from the miscellaneous tank.

A. No, sir, it wasn't the furtherest from the miscellaenous tank.

Q. I'm sorry, which one would be further than that one?

A. Well, the one in the back of it.

Q. Oh, the one directly behind it?

A. Yes, sir.

Q. Oh, I see, but there would be several cells between the one that Reagan was in and the miscellaneous tank?

A. No, sir.

Q. All right, maybe I'm not using the right words.

A. Well—

Q. —Let me, all right, let's use this thing again, (indicating blackboard), and the Judge made an inspection of it so maybe he can help [583] me—assuming that these were the isolation cells—

A. —That's right.

Q. —and this is the miscellaneous tank—

A. —Yes, sir—

Q. —that's behind it—

A. Behind it.

Q. Is there any way that anybody in the miscellaneous tank could, from that tank, look into Reagan Logue's cell?

A. No, sir.

Q. There's no way?

A. No, sir.

Q. All right, they couldn't even do it with mirrors?

A. No, sir.

Q. All right, now let me ask this question—you say you talked to Mr. Jones concerning the return of Reagan Logue to jail?

A. Yes, sir.

Q. Now what exactly did Mr. Jones tell you concerning the measures that were to be taken pertaining to Reagan Logue?

A. Well, now the exact words, I couldn't tell you.

Q. I'm asking you for, I am not asking you for the [584] exact words, but just the exact things that he told you about, not his words.

A. Well, he asked me if I had a cell to put him in by himself that was safe and sound—

Q. —All right—

A. —and could take care of him and keep him, and I says, "Yes, sir, I can."

Q. I see, so you found a cell where he could be kept by himself?

A. Yes, sir.

Q. And where you thought it would be safe?

A. Yes, sir.

Q. Considering what you had?

A. Yes, sir.

Q. And did he expressly suggest to you a cell where he could be kept by himself?

A. Yes, sir.

Q. Now let me ask you this, do you, when you have a federal prisoner, do you pretty well let the Marshal decide things that are to be done with that prisoner, when he's going to be removed, when he is put in, and how he is kept?



A. Well, no, sir, without, as the prisoner is put in, there's some special request or somethin' and we know, we will try to do with him like [585] the ordinary prisoner, why, we just keep him.

Q. As a matter of fact, when you first put him in jail, at first, before he cut himself, he just, you just had him in there and were taking care of him just like you take care of anybody else?

A. With the rest of them, yes, sir.

Q. That was because you didn't know that he was getting ready to cut himself?

A. No, sir.

Q. And you were taking care of him the first time the way you just take care of anybody else?

A. Yes, sir.

Q. So you had him in jail with a bunch of folks who were in jail and you had him downstairs, isn't that right, or do you recall?

A. I don't recall just whether he was downstairs or upstairs.

Q. All right, but in any event, as a result of taking the ordinary care for him, why he tried to commit suicide by cutting his arm?

A. Yes, sir.

Q. And he did it with a razor, as I understand, Mr. Lowrance?

A. Yes, sir, a razorblade.

[586] Q. And it was purely all right for him to have the razor because they had razors in there to shave with?

A. Yes, sir.

Q. And so that on the first go-around, why you

didn't pay any more attention to him than you do to anybody else?

A. No, sir, that's right.

Q. Have you ever, as long as you can remember, and being connected with the Nueces County Jail, ever done anything to a federal prisoner without checking with the Marshal, or without the Marshal asking you to do it, insofar as other than just keeping him in jail?

A. That's right.

Q. Would, would any, when any special circumstances arises, or anything happens, like for example, when Reagan cut himself, you folks immediately contact the Marshals?

A. Yes, sir.

Q. To get instructions from him as to what he wants done?

A. That's right.

Q. And the reason you get those instructions is because you would follow them out as far as you [587] could?

A. That's right.

Q. Then I presume you feel like the federal prisoners are the federal prisoners?

A. Why, sure.

Q. And while you have an agreement to keep them for the federal government, how they are handled when special circumstances arises, is a matter for the Federal Marshal?

A. Yes, sir.

Q. And has that been the unwavering policy of the County Jail in dealing with federal prisoners?

A. As far back as I ever went, yes, sir.

Q. Do you recall ever getting into an argument with a Marshal about what was being done to a prisoner or not done to him?

A. No, sir, never have.

Q. In other words, the manner in which you kept federal prisoners was such that either the Marshal agreed with the way you were doing it, or if he wanted anything done differently, you would do what he wanted done as pertains to that particular prisoner?

A. Yes, sir.

Q. The times that you went up and checked on Logue, [588] you mentioned you did it three or four times that day, that was in connection generally with taking something, or some other prisoner up there or something you had to do upstairs?

A. Yes, sir, that's the main reason. I went, just to be honest about it, every time I taken anybody up, up to one of them other tanks, which is just right there, their doors is right there by it, and I could—

Q. —Surely, I appreciate that, and in other words, if you had something to do upstairs like take a prisoner up, or something, you would do that and then you would drop around—

A. —It wouldn't be ten feet from the door where I was, the other tank, and I would see him and say something to him at that time, and like I say, I can't say what time it was, but I was up there four to six times, I wouldn't say just how many, but in the routine day you are up there a lot of times.

Q. In other words, where your jail routine, when you had to go up for some reason, you would go by and see Reagan?

A. Yes, sir.

Q. And your estimate earlier was three or four [589] times, but it could have been as many as six times?

A. That's right, yes, sir, I wouldn't know.

Q. That would be from 5:30 in the morning until—

A. —4:00, 4:30 in the evening.

Q. 4:00 or 4:30 in the afternoon? All right, now how about the other jailers that were there, I believe turnkeys, I believe that's what you call them—

A. —Yes, sir.

Q. How many other people did you have up there?

A. Turnkeys?

Q. Yes, sir.

A. It would be two besides myself.

Q. Two besides yourself?

A. Yes.

Q. Did you give them any specific instructions pertaining to Reagan or did you more or less kinda consider like he was your responsibility?

A. Well, I considered it part of my responsibility, but at the same time their's too, because I told them from the start, and all the time, to check him and watch him all the time.

Q. When they were up there?

A. Yes, sir.

[590] Q. As far as you know, when they went upstairs to take prisoners, or whatever it might be, they were to look in there?

A. Yes, sir.

Q. All right, who were those two men?

A. Well, it was Strait and Paul Barber, and then

I don't recall just which one of them was workin' at that particular day, but Jack Todd.

Q. But there would be three of you in the jail at one time?

A. Yes, sir.

Q. How many prisoners did you have up there in the jail?

A. Well, I don't know the exact number but I can tell you approximately.

Q. That's what I'm looking for.

A. I would run anywhere from eighty-five to a hundred and ten all the time, so I wouldn't know, I wouldn't say. I never, never had less than around eighty-five, and I had up to a hundred and ten there.

Q. That would be both upstairs and—

A. —Yes, upstairs and down, fifth and sixth floor.

Q. And, and I guess you folks stay busy up there?

A. Well, yes, sir, pretty busy.

[591] Q. And about how many prisoners do you have admitted to, to the jail, do you remember how many you had that day?

A. No, sir, I wouldn't, I can't say.

Q. I'm not trying to be unfair with you, I just wondered.

A. No, sir.

Q. Could you give me an estimate of about how many prisoners you had come in and go out that day?

A. Well, I would say from fifteen to twenty, twenty-five maybe, sometimes, you know, it varies, but we average that many every day, might near. Some days a lot more than others.

Q. Are most of the prisoners that come in and out like that, are they kept downstairs?

A. No, sir, we put them wherever we, well, most of them are just misdemeanors, and we keep them downstairs in the bull pen, and most of them that's going to be there a time, they go up to the miscellaneous tank and state tank.

Q. I see, in other words, the upstairs part would be logically, or generally for your prisoners that are going to be there for awhile anyway?

A. Yes, sir.

[592] Q. And the downstairs part is more for, maybe a DWI, or drunk or—

A. —That's right—

Q. —that's going to get bailed out of jail within twenty-four hours?

A. Yes, sir.

Q. And are not going to be around too long?

A. That's right.

Q. And the reason for that is it just saves you climbing up and down those stairs all the time, is that right?

A. That's right.

Q. Okay.

The Court: Mr. De Anda, maybe we ought to take a little recess.

Mr. De Anda: All right, sir.

The Court: Until 11:00 o'clock.

(After a short recess, Court reconvened in the above entitled and numbered cause, all

parties present and presiding as before, and the following proceedings [593] were had, to-wit:)

The Court: You may proceed, Mr. De Anda.

By Mr. De Anda:

Q. Mr. Lowrance, you left the jail at what time, sir?

A. What date?

Q. That day, the day of the hanging.

A. Well, I didn't leave there until about, I'd say 3:00 o'clock.

Q. All right.

A. Between 3:30 and 4:00, I wouldn't say positive.

Q. And, of course, at that time you were unaware that anything had happened or would happen, if it hadn't happened yet?

A. That's right.

Q. You did not, of your own knowledge, know what time Reagan was discovered or what time he was cut down or anything of that kind?

A. No, sir, I wasn't there.

Q. Other than what someone might tell you?

A. That's right.

Q. Did you go back to the jail that day?

A. No, sir, I didn't go back that day.

Q. When was the first that you knew about the [594] occurrence?

A. Well, shortly after it happened, they called me at home from the jail and told me it happened.

Q. All the times that you went up there, I believe you mentioned one time that you tried to talk to the

boy and apparently he was laying down or sitting up, or what do you recall?

A. He was sitting on the bunk, you know, those bunks over on the side.

Q. Those metal bunks?

A. Yes, sir.

Q. They were still in there, too?

A. Yes, sir, they are attached to the wall, you can't—

Q. —You can't remove those?

A. No, sir.

Q. And he was just sitting in there?

A. Yes, sir.

Q. All right, and on that occasion when you talked to him, you, you went inside the mesh?

A. Yes, sir.

Q. And talked to him?

A. Yes, sir.

Q. Of course, you can see him sitting down there, I suppose, if you, if you are pretty close to [595] that screen mesh without going inside?

A. Oh, yes, sir.

Q. On some of the occasions that you were by there, did you just walk by and see him, walk in and see outside of the mesh, and see if he was all right?

A. I just looked, looked in there; you can see from that state tank, when you go up there and open the door to put anybody in and take anybody out, it's like right here's the tank, and here is the cell right here, (indicating with hands), and when you are opening and closing that door, you can just look



from here to the chairs there and just see him in there.

Q. Normally that door stays locked?

A. Yes, sir, it stays locked all the time.

Q. This is a steel wall, too, that—

A. —Yes, sir—

Q. —as I remember your jail?

A. Yes, sir.

Q. But you would open that door, look inside and see him sitting there?

A. Yes, sir.

Q. There wasn't, well, it wasn't necessary for you to unlock it, go around and unlock it?

[596] A. The screen door?

Q. The screen door.

A. No, sir.

Q. The looking you did was just done through the mesh and the holes from the outside?

A. Yes, sir.

Q. There was the one exception when you went in, inside there to talk to him?

A. That's right, that was just before I went home.

Q. I see, what time did you serve the evening meal at the jail?

A. I'd say we started around about 4:30.

Q. 4:30?

A. Uh-huh.

Q. If Reagan Logue's body was discovered hanging about 4:45, would that be about the time?

A. That's about feedin' time.

Q. That's feedin' time?

A. Just about feedin' time.

Q. That would be about the time that a jailer or someone would go up there to feed the prisoners?

A. Yes, sir, the jailer goes with the trustees to feed.

Q. Would Reagan Logue have been fed at the same time as the other prisoners?

[597] A. Yes, yes, sir.

Q. So the reason that he was discovered hanging up there, then, would be probably because they were going to feed him and found him that way?

A. Yes, sir, I would assume so.

Q. To the best of your remembrance, and knowledge, you put Reagan Logue in that cell under the conditions that you did because that is the way you understood the instructions from the Marshal to be?

A. Yes, sir.

Q. And those instructions, just to review things a little bit, were to take out everything that was movable in the, in the cell?

A. Yes, sir.

Q. All objects?

A. Yes, sir.

Q. Leaving in there the commode and the faucet and the wash basin, the metal tank, the metal bunks?

A. Yes, sir.

Q. And the mattress?

A. Yes, sir.

Q. Removing all his clothing except his shorts, if I remember?

A. That's right.

[598] Q. And being certain he was by himself?

A. Yes, sir.

Q. And watching him periodically when you had to be up there, and you were watching him—

A. —Yes, sir—

Q. —you'd go take a look to be sure he was all right?

A. Yes, sir.

Q. Was there any other instructions now that we have had a recess, and we have been sitting and thinking about it, do you recall any other instructions that you might have gotten from the Marshal?

A. No, sir, I don't recall anything.

Q. And you're positive about your testimony, we have gone over it a couple of times and you are telling me—

A. —Yes, sir—

Q. —everything you know as best you remember it?

A. Yes, sir.

Q. And a team of mules wouldn't get you to change your words you have said?

A. No, sir, I don't think I would change it, I don't know nothin' to change it with.

Q. All right, then I'm going to turn you back over [599] to Counsel for the Government.

A. Thank you, sir.

Mr. De Anda: I pass the witness, Your Honor.

### REDIRECT EXAMINATION

By Mr. Pain:

Q. When you last saw Reagan, and you talked to him, you were on the inside of the wire mesh, is that correct?

A. Yes, sir.

Q. And did I understand you correctly to say that you saw him lying on the bunk at that time?

A. He was sittin' on the, on the bunk, he was just sittin'.

Q. Sitting on the bunk?

A. Sittin' on the bottom bunk, it is a double-deck, one of them double-deck bunks, and he was sittin' on the bottom one.

Q. Now you have handled, I'm sure, quite a few federal prisoners in your job before?

A. Yes, sir.

Q. Now they eat the same food as all the other prisoners, don't they?

[600] A. Yes, sir.

Q. And they wear the same clothing?

A. Yes, sir.

Q. And they are subject to the same rules and regulations?

A. Yes, sir.

Q. The same disciplinary measures that you might want to put against a prisoner?

A. Yes, sir.

Q. And subject to the same—

Mr. De Anda: —Your Honor, this is leading again, and, of course, is repetitious also, but he is leading the witness something ferocious.

The Court: I think you are, too, Mr. Pain.

Mr. Pain: All right, sir.

By Mr. Pain:

Q. Now these, these items that Jerry Jones talked to you about in connection with the preparing of the cell for prisoners, for the prisoner, I think Mr. De Anda characterized them as instructions, were they

instructions that you had to follow or perhaps were they merely requests that he made?

A. Well, merely requests, it was just a standard [601] method that we used anyway.

Q. He couldn't tell you how to—

A. —Oh, no.

Mr. De Anda: This is leading and suggestive, and I'm going to object to it.

Mr. Pain: I will rephrase the question. Could he tell you how to—

The Court: —All right—

Mr. Pain: —prepare for that particular prisoner?

The Witness: No, sir, I wouldn't think so.

Mr. Pain: Pass the witness.

Mr. De Anda: Thank you very much, Mr. Lowrance.

The Witness: Thank you, sir.

The Court: You may step down.

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WITNESS EXCUSED

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Mr. Bowers: We will call Frank Reyna to the stand, please.

Mr. Pain: Your Honor, may Mr. Lowrance be [602] excused?

The Court: Mr. Lowrance, you may be excused, you don't have to wait around.

Mr. Lowrance: Thank you.

Mr. Bowers: Sir, have you been sworn?

Mr. Reyna: No.

Mr. Bowers: Face the Clerk and be sworn, please, sir.

(Oath administered to the witness by the Deputy Court Clerk.)

# FRANK REYNA,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

## DIRECT EXAMINATION

By Mr. Bowers:

Q. Please state your name and address and occupation for the record?

A. My name is—

The Court: —You may be seated.

[603] By Mr. Bowers:

Q. You may be seated.

A. Okay, Frank Reyna.

A. Reyna?

A. Reyna, (spelling) R-E-Y-N-A.

Q. What do you for a living, sir?

A. I work for the Sheriff's Department.

Q. All right, sir, what is your home address?

A. 2626 Vaky.

Q. What do you for the Sheriff's Department, Mr. Reyna?

A. I work for the jailer.

Q. All right, sir, were you so employed in May of 1968? Did you work as a jailer in May of 1968, sir?

A. Yes, sir.

Q. In the Nueces County Jail?

A. Yes, sir.

Q. All right, sir, do you remember a prisoner by the name of Reagan Logue?

A. Yes, sir.

Q. All right, sir, now the evidence in this case shows that Mr. Logue was found hanging in the Nueces County Jail about 4:45 on the 25th of May, 1968, do you know who found him, sir?

[604] A. Yes, sir.

Q. Who was that, sir?

A. Myself.

Q. All right, sir, and is your recollection of the time approximately, does it coincide with what I just, have just stated?

A. Repeat the question, sir.

Q. About what time did you find him?

A. About 4:45.

Q. All right, sir, had you seen Reagan Logue earlier on that day?

A. Yes, sir.

Q. About what time, sir?

A. About around 4:30.

Q. Around 4:30, sir? All right, sir, describe what happened when you saw him around 4:30, please.

A. He was layin' down on the top bunk.

Q. All right, sir, why did you go in there?

A. To check him.

Q. All right, sir, all right, sir, had you seen him on other occasions that day?

A. When I came on duty.

Q. About what time was that, sir?

A. About around 2:30.

[605] Q. All right, sir, 2:30 that afternoon?

A. 2:30 or 2:45.

Q. All right, sir, now other than the three times, when you found him after he was found hanging, fifteen minutes before he was found hanging, and when you went on duty, had you seen him any other times that day?

A. Between—

Q. —I'm sorry, sir—

A. —About three times.

Q. I'm sorry, sir, how many?

A. Around two, two and one, I mean two or one.

Q. Were there any other times?

A. The last one, the last time I seen him was around 4:30.

Mr. Bowers: Pass the witness, Your Honor.



## [606] CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. Reyna, after this happened, did you talk to the Sheriff about what occurred?

A. No, sir.

Q. You never talked to the Sheriff?

A. No, sir.

Q. He never asked you about it?

A. No, sir.

Q. Did you talk to anybody about this happening?

A. Nobody.

Q. No one?

A. No one until—

Q. Until when?

A. The day it happened.

Q. Well, all right, let's start with the day it happened, after it happened, who did you talk to about it?

A. To the desk man.

Q. To the desk man?

A. Yes.

Q. And what did you tell the desk man?

A. The way, the way that I seen the man.

Q. Well, didn't you cut him down?

[607] A. No, sir.

Q. Why not?

A. Well, I had no, I don't carry no knife, just my keys.

Q. I beg your pardon?

A. I just have my keys.

Q. Well, let's talk about that a little bit. What were you doing up there when you found him?

A. It was feeding time.

Q. Feeding time?

A. Yes, sir.

Q. Was anyone with you?

A. About, a couple of trustees.

Q. Were they with you when you saw Logue hanging there?

A. I don't recall. It's like I stand between the two sides of the cells.

Q. You were not inside of the wire mesh?

A. Yes, sir.

Q. You were inside of the wire mesh?

A. Yes, sir.

Q. In other words, you had to unlock the wire doors—

A. —Yes, sir—

Q. —and walk back to Logue's cell?

A. Yes, sir.

[608] Q. And you were going to feed him, was that your purpose in being there?

A. Yes, sir.

Q. That is how you happened to find him?

A. Yes, sir.

Q. When, when you found him, were there two trustees with you?

A. Yeah, I had my trustees busy.

Q. I beg your pardon?

A. I had my trustees busy.

Q. Well, you didn't consider that matter of some importance?

A. Yes.

Q. All right, is that why you didn't call them, because they were busy?

A. No, it was they were feeding.

Q. They were feeding?

A. Yes, sir.

Mr. Bowers: Your Honor—

Mr. De Anda: —Frank—

Mr. Bowers: —Pardon me, sir, I think it is obvious from the witness' testimony that English is not his first language and that he is having some difficulty with it.

[609] The Witness: Yes, sir.

Mr. Bowers: And if I could ask the Court to attempt to be sure that the witness understands these questions, I think it is quite critical in this area.

Mr. De Anda: Your Honor, he had no problems on direct, and I don't think he is having any on cross.

The Court: Well, we will go a little bit further.

The Witness: All right.

Mr. Bowers: I'm not objecting to the cross examination; I simply want to call the Court's attention to this particular problem that this witness has, and I think he did have difficulty a few times on direct.

Mr. De Anda: Well, I don't see that we were having any problem at all, of course, that's for the Court, and I don't want to argue about it.

The Court: You may proceed, Mr. De Anda, and we will see how we get along.

By Mr. De Anda:

Q. Mr. Reyna, after you discovered this man hanging [610] there, what, what did you do?

A. I took my trustees downstairs with me.

Q. You took your trustees downstairs?

A. Yes, sir.

Q. And to do that, you had to unlock the door there at the stairway?

A. Yes, sir.

Q. Go downstairs and unlock another door?

A. Yes, sir.

Q. And go through the bull pen area, is that what you call it?

A. Yes, sir.

Q. And then through the door that leads next to the booking desk?

A. The closest door to the booking desk.

Q. The booking desk, and you went through that door?

A. Yes, sir.

Q. And you talked to the people at the desk there?

A. Yes, the one in charge of the desk.

Q. And what did you tell him?

A. Well, that the man, the one was hanging, that's all.

Q. That the man was hanging?

A. Yes, sir.

[611] Q. Then what did you-all do?

A. He takes care of it after that. I don't know who

called, he grabbed, he took the phone, that is all I know.

Q. All right, well, did anybody go back upstairs?

A. I don't remember, sir.

Q. Did you go back upstairs?

A. Right away, no.

Q. Well, how long did you wait before you went back upstairs?

A. I wait for further notice.

Q. Okay, well, when did you get further notice?

A. From the desk man.

Q. All right, now how long did, how long did he wait?

A. Oh, he called downstairs, I don't know.

Q. You mean on the telephone?

A. On the telephone.

Q. Was it five minutes, ten minutes, or twenty minutes, or how long?

A. I don't remember, sir.

Q. Well, were you pretty accurate on your times a moment ago about when you were going by there?

A. Yes, sir.

Q. How is it that you recall those times so, so [612] well, did you keep a record of them anywhere?

A. I got, we started feeding around a quarter to 5:00.

Q. Oh, I understand that.

A. Yes, sir.

Q. But you said you had been by there at 4:30.

A. Yes, sir.

Q. Why do you remember that?

A. Well, I, we receive a prisoner.

Q. All right.

A. And the desk man takes care of it and I went upstairs to check him.

Q. Oh, the prisoner, you mean?

A. No, the prisoner he was bookin'.

Q. All right.

A. I went upstairs especially for that.

Q. For what?

A. To check that Mr. Logue.

Q. To check Reagan Logue?

A. Yes, sir.

Q. Did anybody tell you to go up there and check him?

A. No, sir, because when they came in, they told me to check him pretty close.

Q. All right, so you checked him, you came in around [613] 2:00—

A. —Around 2:30.

Q. 2:30?

A. 2:45, between—

Q. —Between 2:30 and 2:45?

A. Yeah.

Q. And what was the total number of times that you either went up to check Logue or had occasion to go up there and check Logue, the total number, how many, two, three, how many times?

A. When I come in, on the last time I saw him, around 4:30.

Q. All right.

A. And about 4:45 is the last time I see him.

Q. That's three times.

A. Three times.

Q. All right, you checked him when you came in?

A. Yes, sir.

Q. And you checked him at 4:30?

A. Yes, sir.

Q. Then when you were feeding, at feeding time, that was when you found him?

A. Yes, sir.

Q. Those are the three times?

[614] A. Yes, sir, but I check him in between.

Q. How many, how many times total did you check him that you can recall?

A. I don't remember, sir, but—

Q. —Was it more than three times?

A. More than three times?

Q. Can you give me some estimate of the times, four or five times total?

A. I think one more, I believe so, because somebody came in lookin' for a prisoner and I had to bring him down so he could talk to the prisoner, and then take him back.

Q. Well, in other words, you would check him when you had reason to go upstairs, when you had some reason to go upstairs, like you had to get a prisoner out?

A. Yeah, and between.

Q. Then you would go check Logue?

A. Yes, sir.

Q. When you would check Logue, and as I have been up there, there is a wire mesh—

A. —Yes, around—

Q. —around these cells?

A. Yes, sir.

Q. And inside of the wire mesh are the cells?

[615] A. Yes, sir.

Q. Were these metal walls and with holes in them?

A. Yes, sir.

Q. Now when you checked him, would you go up to the wire mesh and look and see inside of the cell, is that how you did it?

A. No, I had to go around, around the door.

Q. Well, I know you had to go around, that's the only way to get over there, but did you go inside of the wire, now I'm not trying to trick you or anything, I'm just trying to find out what you did, okay?

A. Okay.

Q. Did you go inside of the wire mesh to check him and look in the cell, or did you just go around the wire mesh and look through it?

A. Inside.

Q. Huh?

A. Inside.

Q. You went inside?

A. Yes.

Q. Did you ever unlock the door?

A. No, sir.

Q. You never went inside of the cell, you just looked through the little holes?

[616] A. Through the little holes.

Q. All right, and do you, you recall specifically three times that you did this. How do you remember the times that you did it? I can understand the way you remember the time that you did it at 4:45 because you were feeding, but how is it that you recall these other times, I'm just wondering about it?

A. Well, 4:30, I was telling my boys to get ready to feed, for feeding time, and by that time I get up, bring up my trustees.



Q. About 4:30?

A. Around 4:30.

Q. All right.

A. And as soon as I call my trustees, I went upstairs. When the prisoner came in, the desk man take care of the prisoner and I went upstairs.

Q. All right, now you were in charge of the feeding that day?

A. Yes, sir.

Q. And you fed both upstairs and downstairs?

A. Yes, sir.

Q. All right, and do you accompany those trustees all the time—

[617] A. —All the time—

Q. —while you are feeding?

A. All the time.

Q. Okay, do you feed downstairs before you feed upstairs?

A. Yes, sir.

Q. All right, now the food comes out of the kitchen?

A. Yes, sir.

Q. You go back in the kitchen with the trustees to get the food?

A. The trustees wait in the front, in the bull pen.

Q. Then what do you do, have big serving pans or what?

A. Little pans, about that big a square. (Indicating with hands)

Q. They are individual—

A. —Yes, sir—

Q. —servings, sir—

Q. —servings?

A. Yes, sir.

Q. And you hand them out to the prisoners?

A. Yes, sir.

Q. And so you did this downstairs?

A. The trustees.

Q. The trustees did, but you are sitting there watching?

[618] A. I'm watchin' next to the trustees.

Q. All right, how long does it take you to sit there and hand out all of these dishes to the people downstairs?

A. Oh, excuse me, I can't, it depends on how many prisoners we have.

Q. Well, this is a fair enough answer; how many prisoners do you recall having?

A. I don't remember, sir.

Q. About how many would you have? You can check the number, I am sure, I am sure the record will show it, but give me a guess now and we will find out whether you are right or not.

A. Well, I don't, I wouldn't be lying, about around fifteen.

Q. Fifty?

A. Fifteen.

Q. Fifteen?

A. Yes.

Q. Downstairs?

A. Downstairs.

Q. All right, and you feed those fifteen prisoners?

A. Yes, sir.

Q. You just hand them their food?

A. Yes, sir.

[619] Q. You just, all right, then after—did you go inside of the cell block to do this?

A. No, sir.

Q. It's done from the outside?

A. From the outside.

Q. Is there some sort of an opening or a little window?

A. A window.

Q. A window?

A. Yes, sir.

Q. You unlock it?

A. Unlock it.

Q. Then pass the trays in?

A. Pass the trays.

Q. And after you get all the trays passed in, what is that area downstairs, what is that called where those prisoners are down there that you are feeding?

A. Down state.

Q. Down state?

A. Yes, sir.

Q. All right, then you took the trays of food upstairs?

A. Yes, sir.

Q. All right, now when you get upstairs, do you [620] go on the elevator or do you just haul the stuff upstairs?

A. Walk it upstairs.

Q. Walk it upstairs?

A. Yes, sir.

Q. Then did you start feeding the prisoners in the miscellaneous tank?

A. Yes, sir.

Q. How many prisoners did you have in there?

A. Oh, I believe, not very much, about around nine or ten.

Q. Nine or ten, that would be twenty-four total?

A. (No answer)

Q. All right, and then you fed all those, passed the food out?

A. Yes, sir.

Q. Then where did you go?

A. To isolation.

Q. Then you went to isolation?

A. Yes, sir.

Q. And before you started doing all of this feeding, you had gone to, you had been by to see Logue?

A. Yes, sir.

Q. All right, well, when I have been up to the jail [621] to see people, Mr. Reyna, it seems to me like it takes well over an hour, about an hour and fifteen minutes, doesn't it, to feed?

A. To pick up the trays, feed them and pick them up.

Q. Yes, isn't that about what it takes? I know I have sat around downstairs for a long time waiting for you fellows to get through with your work—

A. —Yes, yes, sir.

Q. Well, would you say that after you get through passing all the food out, then do you start going back down and picking up the trays, by that time the fellows downstairs get through eating?

A. No, I go downstairs, I take my meal, and after I get through, I call my trustees.

Q. And you go back and pick up everything?

A. Yes, sir.

Q. I take it this day you didn't do that, or did you?

A. I forgot about it.

Q. You forgot about it?

A. Uh-huh.

Q. All right, so that is what happened before?

[622] A. Yes, sir.

Q. And now let me make one more stab at it, and just give me as honest an answer as you know how, and to the best of your recollection, but about how many times did you actually go by and see Logue from 2:30, or whenever it was that you got in, until you found him hanging?

A. 3:00, 3:30, 4:30, 4:45—

Q. —Beg pardon?

A. About around four times, as I recall.

Q. That's the best? All right, I will accept that. Now let me talk to you a little bit more about what happened afterwards. I believe that you found, you saw Reagan Logue hanging there, and then you left and got the trustees, or they were with you, I believe.

A. Yes, sir.

Q. They were with you?

A. Yes, sir.

Q. All right, they were with you, so the three of you went back downstairs and you reported to the desk?

A. Yes, sir.

Q. And you told the fellow at the desk?

A. Yes, sir.

[623] Q. There is a fellow hanging up there?

A. Yes, sir.

Q. Then he got on the phone?

A. Yes, sir.

Q. And started calling people?

A. Yes, sir.

Q. And did he make any more than one phone call?

A. I don't remember.

Q. All right, then how long did you stay downstairs before you went back upstairs to see about Reagan?

A. When the Sheriff came up.

Q. Oh, nobody went up there until the Sheriff came up?

A. Yes, sir.

Q. Now the Sheriff was at home, as I recall, is that right?

A. The first time I seen him, the first time I seen the Sheriff that evening was when he came up.

Q. All right, didn't they call the Sheriff at home?

A. I don't know, sir.

Q. Well, it would have taken at least twenty minutes or so for the Sheriff to get there, does [624] that sound about right, from his house?

A. Well, I never went up; I wait for the Sheriff.

Q. Anyway, regardless of what time you went up there, it was not until the Sheriff came up?

A. Yes, sir.

Q. And nobody else went up there?

A. No, sir.

Mr. Bowers: Your Honor, may I ask the witness one brief question on voir dire about the person, where the Sheriff was? Do you know of your own knowledge where he was, Mr. Reyna?

The Witness: No, sir.

Mr. Bowers: So you, anything that you found out, that's not, now it's Sheriff Mitchell I'm talking about, so you have no, you do not know that by your own knowledge, then?

The Witness: That's right, sir.

Mr. Bowers: All right, I think we have to object to any answers that the witness would give on the basis that it would be hearsay.

Mr. De Anda: Answer to what?

Mr. Bowers: As to where Johnnie Mitchell [625] was when the phone call was made, whether he was at home or wherever. He said on voir dire he didn't know, therefore, he could not be testifying from his own knowledge.

Mr. De Anda: Oh, all right.

Mr. Bowers: And may we have that portion stricken where he refers to the Sheriff?

Mr. De Anda: I, I clarified it by my subsequent question.

The Court: I thought it had been because Mr. De Anda's last question was, well, in any event you didn't go back up until the Sheriff got there.

Mr. De Anda: That is all I was trying to establish.

The Court: He was downstairs, so I think it has been.

Mr. Bowers: All right.

By Mr. De Anda:

Q. Whenever the Sheriff got there, Mr. Reyna, you went back upstairs?

A. Yes, sir.

Q. With him?

A. Yes, sir.

[626] Q. And then how was Reagan Logue removed from his position where he was hanging?

A. I believe the men cut the string.

Q. Did you—now let me see your actions now, when you got up to the cell you opened the door, I presume, to feed him?

A. No, sir, we had the little windows under the door.

Q. On the isolation cell there is—

A. —Yes—

Q. —Well, I'll be darned, I missed that when I was up there. There is a little place where you can feed the man in isolation without opening the door?

A. Yes, sir.

Q. And so when you looked through the aperture there, you saw him hanging there?

A. Yes, sir.

Q. You never did go in the cell?

A. No, sir.

Q. So you couldn't tell whether he was alive or dead?

A. It was, he had changed colors.



Q. You could tell there was some color change?

A. Like white.

[627] Q. He was sorta white?

A. Yes, sir.

Q. Was there anything else about him that—

A. —That's all.

Q. All right, well, other than what you could see through those little holes—

A. —Yes, sir—

Q. —you saw him and you, you didn't sit around there—

A. —No, sir—

Q. —and watch, you knew—

A. —No, I don't give it a chance for the trustees to see.

Q. All right, and they didn't even see it at all?

A. I don't believe they had a chance.

Q. Oh, I see, so then you left and you can't tell whether he was alive or dead at that point?

A. Other than he was a little white.

Q. He was a little white?

A. Yes, sir.

Q. All right, and you went downstairs—I don't think we need go over this, but let me ask you one more question, you have given an awful lot of thought to the number of times you went up there, okay?

[628] A. Okay.

Q. And you have told me that four times is the number of times you remember going up there, including the time that you found him hanging?

A. Yes, sir.

Q. Now I know that this has been a long time—

A. —Yes, sir—

Q. —but you are as positive as you can be about that number?

A. I mean it might be more, that's why I make it four.

Q. But four is the most logical number, and the more probable number, is that right?

A. That's right.

Q. All right, and I guess I could jerk, jerk you around a little bit here talking to you and make you say three, or make you say five, but really four is what you recall?

A. I will say, yes.

Q. All right, when you went up there, did you ever go up there with anyone other than the trustees?

A. I go by myself.

Q. All right, were you, was Mr. Lowrance still on duty when you got there, or had he already [629] left that day?

A. I don't remember because sometimes he stays late, and sometimes he goes.

Q. You don't have any recollection about that day?

A. No, sir.

Q. Who was it that, who was it that told you to keep an eye on Reagan?

A. The desk man.

Q. The desk man?

A. The desk man.

Q. It wasn't Mr. Lowrance?

A. Well, when I came in at 2:30.

Q. When you came in at 2:30, what?

A. He told me about him, too.

Q. Mr. Lowrance told you?

A. Mr. Lowrance.

Q. Is that what he told you, to keep an eye out on him?

A. Yes, sir.

Q. Did he give you any other instructions at all pertaining to Mr. Logue, Reagan Logue?

A. No, sir.

Q. All right, to your knowledge did anybody else go up there during the time you were on duty besides yourself?

[630] A. I don't remember, sir.

Q. Would anybody else have any reason to go upstairs?

A. Nobody else, just the desk man and myself.

Q. Who is the desk man?

A. I'm not too sure, I think Paul Barber or Jack Todd, I don't remember.

Q. Mr. Barber, I think he was on duty that day, about that time, I think that the record is going to show that he would have been the one that was on the desk.

A. Yes, sir.

Q. Is his primary duty to be on the desk, is that his main job?

A. The desk and look around.

Q. But for the bookings and this sort of thing, he is the one that handles that or handled it that day?

A. The matron.

Q. He and the matron?

A. The matron handles it.

Q. I didn't, I'm sorry, I missed your answer.

A. The matron makes the bookings.

Q. She makes the bookings?

A. Yes.

Q. And Barber does not make the bookings?

[631] A. No, sir.

Q. All right, he is just down there at the desk?

A. Yeah, he would be the fellow there when peoples come in that opens the door and unlocks it.

Q. When he is on duty, he is the fellow on the desk?

A. Yeah, he can do this, when anyone comes in, he locks it and unlocks it.

Q. I beg your pardon?

A. Yes, sir, he is about, we both, we do the same job.

Q. You and he?

A. Yes, sir.

Q. All right, let's get just one thing straight here, Mr. Reyna, if I might—as I understand it, there are three of you in jail—

A. —Yes—

Q. —at any one shift, and there is one of you that generally stays at the desk?

A. Yes, sir.

Q. And then there is somebody that is generally standing up there next to the entrance to the jail when I go up there and come out of the elevator, there is usually a fellow, nine times out of a hundred, standing right inside there [632] with a key to that door, and I hand him a slip.

A. Yes, sir.

Q. And he unlocks the door and lets me in.

A. Yes, sir.

Q. Now is that one of the three men we're talking about?

A. (No answer)

Q. That would be one of the people on the jail shift?

A. Yes, sir.

Q. And that man's position generally is there by the door?

A. Yes, sir.

Q. And I say that because no matter what time I have gone up there, when I used to go up there occasionally, there would be this fellow, and this fellow would be Mr. Todd or somebody.

A. Yeah.

Q. And then there is one person that generally stands generally inside the booking area, inside there where the telephone is, and all of your papers are.

A. Yes, sir.

Q. All right, now where does the third man stay, does he stay inside of the cell block, I don't mean inside there with the prisoners, but does [633] he stay inside of what we call the bull pen?

A. Repeat the question, sir.

Q. Well, I have pinned down where two of the people stay generally.

A. Yes, sir.

Q. One at the desk?

A. Yes, sir.

Q. And one next to the entrance door?

A. Yes, sir.

Q. To the jail, now where does the third fellow stay generally?

A. Third, the third man is going to be the turnkey.

Q. Yes, the turnkey, all right.

A. Yes.

Q. Would that be you?

A. Yes, sir.

Q. Where do you generally stay?

A. There in the front or—

Q. —Downstairs, in the downstairs part of the jail?

A. In the front office.

Q. In the front office?

A. Yes, sir.

Q. In other words, there is a rule that there are no jail personnel, and by that I mean Deputies, [634] or jailers, or turnkeys—

A. —Yes, sir—

Q. —inside the areas where the prisoners stay or inside the bull pen, there is usually not anybody in there unless you have some specific reason—

A. —Yes, sir—

Q. —for being in there?

A. Yes, sir.

Q. Now at night, at night, as I understand, you do have to go upstairs simply for the purpose of checking the prisoners?

A. Yes, sir.

Q. And you do that, is it every hour?

A. Every hour.

Q. Every hour at night?

A. Yes, sir.

Q. And to be sure you do it, they have some time clocks up there that you have to punch?

A. Yes, sir.

Q. And you, you open those time clocks with a key?

A. Yes, sir.

Q. Or work it with a key?

A. Work it with a key.

Q. Insert the key and it punches the time that [635] you checked?

A. Yes, sir.

Q. Now that keeps the record?

A. Yes, sir.

Q. So that the times that, that the jail was checked, that the jailer went upstairs to check the second floor—

A. —Yes, sir—

Q. —there would be a record of that on the jail time sheets?

A. Yes, sir.

Q. At least for night time?

A. The one that was on that duty around 10:30; after that it, it is another jailer.

Q. I understand that.

A. Yeah.

Q. When do these time checks start?

A. Around 8:00.

Q. About 8:00 o'clock?

A. Yes, sir.

Q. And they go on through to when?

A. To around 5:00 o'clock in the morning.

Q. All right, so we would have a record in that jail of the times that the jail was checked upstairs on May the 24th at night?

[636] A. Yes, sir.

Q. I wonder if you would be so kind, Mr. Reyna—well, that's all right, I will get somebody on it. Now during the day, do you keep any kind of a record, or were you told to keep any kind of a record with reference to the number of times that you checked Reagan Logue?

A. No, sir.

Q. Did you write down anything?

A. No, sir.

Q. Nobody told you to do that?

A. No, sir.

Q. The only instructions that you got pertaining to Reagan Logue—

A. —Yes, sir—

Q. —as best you remember it, Mr. Reyna, was to keep an eye on him?

A. Yes, sir.

Q. That's the only thing that was told to you?

A. Yes, sir.

Q. You're positive of that?

A. Yes, sir.

Q. Can you think, I'm going to give you a little time to think about it, can you think of anything else that you might have been told about [637] Reagan Logue, or watching him, or anything of the kind, other than what you just said?

A. No, sir, just to keep watchin' pretty close.

Q. Watch him pretty close?

A. Uh-huh.

Q. When you were given these instructions, was Mr. Barber also given the same instructions?

A. Yes, sir.

Q. He was present, too?

A. Yes, sir.

Q. Did he come on duty when you did?

A. Yes, sir, well, the desk man.

Q. Yes, sir, assuming he was on it?

A. Yes, sir.

Q. On duty?



A. Yes, sir.

Q. In other words, when you-all came in, both of you came in and Mr. Lowrance told you, "Watch him pretty close"?

A. Yes, sir.

Q. That was all that was said?

A. That's all.

Q. And so in accordance with those instructions, obeying those instructions, from 2:45 or whenever it was you went up to see him—

[638] A. —Yes, sir—

Q. —you saw him a total of four times to 4:45 when—

A. —Yes, sir—

Q. —when you found him hanging?

A. Yes, sir.

Q. Now you didn't report to anybody when you were going to make these trips? "I just went up and saw Reagan Logue and he is okay," you didn't say anything like that to anybody, did you have to say anything like that to anybody?

A. No, sir.

Q. Okay, and he went, if you went up there it was because you were doing something, or specifically for that purpose, but you didn't tell anybody about it or anything?

A. Yes, sir.

Q. If anybody else went up there, you don't know about it?

A. I don't know about it.

Q. Or the times that they went up there?

A. No, sir.

Q. All right, let me ask you one thing—other than

the time that you saw him before you found him hanging, Mr. Reyna, what was he doing?

[639] A. He was—around 4:30?

Q. Whenever it was.

A. The last time I see him, before I fed him, he was laying down on the top bunk.

Q. He was laying on the top bunk?

A. Yes, sir.

Q. You didn't say anything to him?

A. No, sir.

Q. Did you ever say anything to him?

A. No, sir.

Q. Did you ever try to say anything to him?

A. No, sir.

Q. Did he ever try to say anything to you?

A. No, sir.

Q. Did you ever hear him say anything?

A. No, sir, he was just laying down on the top bunk.

Q. And he was laying on the top bunk?

A. Yes, sir.

Q. They are what, three bunks?

A. Two.

Q. Two bunks, and there is a tier, one on top of the other?

A. One on top of the other.

Q. Now the time before that, that you saw him, you [640] say you saw him four times, so that is two times, when he was hanging and when he was on the top bunk, now the time before that, that you saw him, what was he doing?

A. He was standing between the cell.

Q. Just standing there?

A. Between the cell, in the middle.

Q. You mean, I'm sorry, you lost me now.

Mr. Bowers: I think we're getting into a language problem there, I don't think he understands.

Mr. De Anda: There is not any language problem at all; we are asking the questions and the Government doesn't like the answers, but Judge, he answered the question, he answered my—

Mr. Bowers: —It is not a question of knowing, it's a question of—

The Court: —I don't think he understood what you asked him. It's obvious that you've got him confused right now, so see if you can straighten it out.

Mr. De Anda: All right, I'm going to try and straighten him out, Judge.

By Mr. De Anda:

[641] Q. Mr. Reyna, I am confused by your answer—

A. —Yes, sir—

Q. —and if any of the questions I ask you, if you don't understand them, you call it to my attention.

A. All right, sir.

Q. And anything you are trying to say, that you might better say in Spanish, if you have problems, you let me know. I understand Spanish, you know that.

A. Okay.

Q. But now let's get back—the last time you saw him, of course, he was hanging?

A. Yes, sir.

Q. And the time before that he was on the top bunk?

A. The top bunk.

Q. Asleep?

A. Yes, sir.

Q. And the time before that, that you saw him, you saw him four times?

A. Yes, sir.

Q. Now this is the third time, going backwards, okay?

A. Uh-huh.

Q. You say he was standing up?

[642] A. Yes, standing up inside.

Q. Inside of his cell?

A. Yeah.

Q. He wasn't outside the cell?

A. No, sir.

Q. In other words, the door to his cell, the metal door, the iron door to his cell was locked, wasn't it?

A. Yes, sir.

Q. All right, in other words, for him to have gotten out of his cell, would he have had to go through the metal door?

A. Yes, sir.

Q. And he would have had to go through the mesh, the wire mesh door?

A. That's right.

Q. All right, so he was standing in there?

A. Yes, sir.

Q. How about the first time you saw him, what was he doing, do you remember?

A. I don't remember.

Q. Did you ever hear any noise coming from the cell or anything like that?

A. No, sir.

Q. It was always very quiet in there?

[643] A. Yes, sir.

Q. Were you in a position to see the bandage on his arm any time, or do you remember a bandage on his arm?

A. Yes, sir.

Q. Of course, we know that is what he hung himself with?

A. Yes, sir.

Q. Did he have the bandage on his arm the first time you saw him, do you remember seeing it?

A. Yes, sir.

Q. When you went up, up there at 2:30 or 2:45?

A. Yes, sir.

Q. And then, although you don't remember how he was positioned, you remember seeing the bandage?

A. I know he had it on the arm.

Q. Well, do you remember him having, you don't know where the bandage was?

A. No, no, sir.

Q. In other words, you remember he used the bandage to hang himself, but you don't recall what part of his body the bandage was used for?

A. Right here. (Indicating)

Q. For the arm?

A. Yes, but I don't know which arm.

[644] Q. You don't recall which one?

A. No, sir.

Q. All right, do you remember seeing the bandage when you saw him standing in his cell, whether or not he had a bandage on him?

A. I don't remember.

Q. You don't remember seeing the bandage then?

A. No, sir.

Q. Could you see the bandage at the time that you saw him laying in the bunk, was he laying—

A. —Yes, sir—

Q. —laying such a way that you could see it?

A. Yes, sir.

Q. You do recall seeing the bandage then?

A. Yes, sir.

Q. All right, I haven't tried to confuse you, Mr. Reyna, or mix you up. Is there anything, any question that I asked you, so far as you can tell me, that you didn't completely understand?

A. It's pretty good so far.

Q. Okay, all right.

Mr. De Anda: I pass the witness, Your Honor.

Mr. Bowers: Just a couple of questions, Mr. Reyna.

[645] REDIRECT EXAMINATION

By Mr. Bowers:

Q. When you discovered Reagan Logue in the cell hanging there—

A. —Yes, sir—

Q. —was he moving at all?

A. No, sir.

Q. All right, sir, what was your belief at that time as to whether he was dead or alive?

Mr. De Anda: Your Honor, I object to that as being a conclusion on the part of the witness. The witness has stated the facts surrounding the discovery, and the fact, number one, that the fellow was a little bit light, and number two, that he was hanging still, and as far as his conclusion or opinion as to whether or not the man was living or dead at that time, I don't believe that he would be qualified to, to answer the question.

Mr. Bowers: Counsel—

The Court: —I think he could give what he thought—

Mr. Bowers: —Yes, sir.

[646] The Court: — at the time, I think it might have some relationship to what he did afterward. I think he can say what he thought. It doesn't mean that that is, it is a fact, but I think—

Mr. De Anda: —You are not admitting it for that purpose?

The Court: No, I'm not admitting it as proof of whether he was or not.

Mr. Bowers: It's not intended for that.

By Mr. Bowers:

Q. What is, what is your belief, your personal belief at that time, at the time you left the area, as to whether Reagan Logue was dead or alive?

A. I don't see it move. All I could think is the fellow was a dead man.

Mr. De Anda: I don't think even the Court Reporter understands your answer.

By Mr. Bowers:

Q. Let's just strike the question and I will just simply ask it again, sir. What was your belief, that is, what did you think in your own mind at that time as to whether Reagan Logue was dead [647] or alive?

Mr. De Anda: Your Honor, if he had a belief, that's a leading question and I think it presupposes, presupposes—

The Court: —You're right.

By Mr. Bowers:

Q. All right, sir, what was, what was your thoughts about Reagan Logue's condition as to the existence of his life at the time you left the isolation cell area?

A. Do you want to repeat the question, sir?

Q. All right, sir, did you think he was dead or did you think he was alive at the time you left, you left the isolation cell area?

A. By, by that time, my mind went blank.



Q. You had no thought on it?

A. No thoughts.

Q. Were you frightened at that time?

A. Yes, sir.

Q. All right, sir.

Mr. Bowers: I have no further questions.

Mr. De Anda: Thank you, Frank, I don't have anything else. As far as I'm concerned, you can go.

Mr. Bowers: We will agree that this [648] witness may be excused.

The Court: All right, you may be excused.

Mr. Bowers: Thank you very much, sir.

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WITNESS EXCUSED

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The Court: Okay, we will recess until 2:00 o'clock.  
(And thereafter at 2:00 o'clock P.M., Court reconvened in the above entitled and numbered cause, all parties present and presiding as before and the following proceedings were had, to-wit:)

Mr. Bowers: Mr. Paul Barber will be our next witness, Your Honor.

The Court: All right.

Mr. Bowers: Stand there at the Clerk's desk, Mr. Barber, and be sworn, please, sir.

[649] (Oath administered to the witness  
by the Deputy Court Clerk.)

PAUL BARBER,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

#### DIRECT EXAMINATION

By Mr. Bowers:

Q. Will you state your name, please, name, address, and occupation for the record, sir?

A. Paul Barber. I live at 1591 Hampshire, Corpus Christi. I am a Deputy Sheriff of Nueces County.

Q. What is your duty in the Sheriff's Department, Mr. Barber?

A. Well, I am one of the jailers.

Q. How long have you been so employed, as a jailer?

A. Oh, about nineteen, twenty years.

Q. Okay, sir, now calling your attention to May the 25th, 1968, were you on duty at the jail that day?

A. Yes, sir, I went on at 2:30.

[650] Q. All right, sir, when did your shift run, from 2:30 to what?

A. 2:30 until 10:30.

Q. 2:30 to 10:30, sir?

A. Yes, sir.

Q. At that time, do you recall a prisoner by the name of Logue?

A. Yes, sir, I do.

Q. All right, sir, now where was Mr. Logue located in the jail at that time?

A. He was up on the sixth floor in isolation.

Q. All right, now on that day, sir, what were your duties in and around the jail?

A. Well, when I came in the Chief Jailer told me about having this boy up there in isolation and to keep pretty close watch on him.

Q. All right, sir, now from 2:30 on, can you tell us whether or not you did anything toward observing the Logue boy?

A. Well, probably around 3:00 o'clock, I checked my jail downstairs and upstairs, and I also checked the block where Mr. Logue was and talked to him.

Q. All right, sir, do you recall that conversation with the Logue boy?

[651] A. Well, I asked him how he was feeling and he says, "Pretty good."

Q. All right, sir, did he say anything else at that time?

A. Well, not particularly. I asked him if there was anything I could do for him or get for him, and he says, "No, sir."

Q. Okay, what did you do after that?

A. Well, I went on and checked what we call the upstate tank, and then I went back downstairs to my office.

Q. All right, sir, did you see the Logue boy again that afternoon?

A. Well, I did, yes, sir, around, oh, approximately a quarter to 5:00.

Q. All right, sir, and that was the occasion when he was removed from the cell, is that correct?

A. Yes, sir.

Mr. Bowers: Pass the witness, Your Honor.

[652] CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. Barber, did you ascertain, did you find out about Reagan's hanging from Mr. Reyna?

A. I did, sir.

Q. And now as I recall the testimony, Reyna came downstairs from the upstairs part of the jail—

A. —Yes, sir—

Q. —and advised you that, I presume, that Reagan Logue was hanging in his cell?

A. Right, sir.

Q. And you then made some phone calls?

A. Yes, sir, I called the Sheriff and Judge Dunne.

Q. All right, now did, where did you call the Sheriff?

A. Downstairs.

Q. I'm sorry.

A. In his office.

Q. In his office?

A. Yes, sir.

Q. The Sheriff was not at home at the time?

A. No, sir.

Q. All right, then the Sheriff came on up from his office?

[653] A. Right.

Q. Sheriff Mitchell has been ill and hurt for a long time, if I recall correctly, a considerably long time, was he hurt then?

A. Well, he was getting around very well then at that time.

Q. Was he using a cane?

A. No, sir.

Q. Back then?

A. No, sir.

Q. Then as you recall, you called him at his office and waited for him there at the jail office, for him to come on upstairs?

A. Right.

Q. His office is located on the—

A. —First floor.

Q. The first floor, or what I would call the basement of the courthouse?

A. Well, yes, sir.

Q. And the jail, the jail office is on the fifth floor?

A. Right.

Q. And he would have to walk from his office to the elevator and then come up the elevator to the fifth floor and get off and go on into the jail?

[654] A. Yes, sir.

Q. During the interim, from the time you called him until he arrived, did anyone go upstairs for the purpose of seeing Reagan Logue?

A. Well, to my knowledge, I don't know, sir.

Q. All right, if the Sheriff stated that he was at home when you called him, and drove from his

house to the, to the County Courthouse, would that be an erroneous statement?

A. He wasn't at home.

Q. All right, did you make any memorandum or written statement to anyone pertaining to this, Mr. Barber?

A. Well, I think there was a statement or something made about it. I don't remember at this time what it was.

Q. Do you recall who made the statement to?

A. (No answer)

Q. Let me show you a statement because it is unsigned and perhaps you can solve something for me. (Showing instrument to witness) Is this the same one we were talking about earlier, do you ever recall seeing that instrument, Mr. Barber, it's supposedly, and we referred to it before, and for the record I will again explain [655] that we are talking about a report dated June the 4th, 1968, on the Sheriff's letterhead from, to Judge, the Justice of the Peace, Peter Dunne, and from the Sheriff, Johnnie Mitchell, the subject, Reagan Logue, Federal prisoner.

A. No, sir, I haven't seen this before.

Q. You didn't have anything to do with preparing this report?

A. No, sir.

Q. Well, let me ask you if you would know who did have anything to do with preparing this report?

A. Well, I'd say, to my knowledge I wouldn't know who did it.

Q. Who would normally make reports of this type, whatever the occasion might be, that would make a report to the Justice of the Peace when someone dies in jail?

A. Well, I imagine it was made downstairs in the main office.

Q. I see, you say that afternoon, and I'm talking about the afternoon of the death, when you came on that you were told to keep an eye on, on Reagan Logue?

A. Yes, sir.

[656] Q. And in compliance with that request, or instruction, whatever you want to call it, you went by there at 3:00 o'clock to look at him and you talked to him briefly?

A. Yes, sir.

Q. Did you receive any other kind of instructions pertaining to Reagan Logue at all that you remember?

A. No, sir, because I had been off a day, so in fact, I wasn't there when they brought him in from the hospital. I hadn't come on duty yet.

Q. Yes, sir, well, then, this is the only instructions you ever received?

A. That's right.

Q. And the only time you ever received any instructions?

A. On this particular subject, yes, sir.

Q. On this particular prisoner?

A. Yes, sir.

Q. All right, well, let me—then had you worked the day before, Mr. Barber?

A. Well—

Q. —If you will, well, if it will help you any, I believe this was a Saturday, a Saturday.

Mr. Bowers: Saturday.

[657] By Mr. De Anda:

Q. A Saturday.

A. Well, I don't recall just what days I had off because we changed shifts up there and the days off changed.

Q. This was on May the 25th, Saturday, May the 25th, do you, because of your long tenure, have any special consideration up there as to days off or anything?

A. Beg pardon?

Q. Strike that—well, let me approach it this way. What days, what days do you have off now?

A. The days I have off now?

Q. Yes, sir.

A. On, on Wednesday and Thursday.

Q. Wednesday and Thursday?

A. Uh-huh.

Q. How long have you had Wednesdays and Thursdays off?

A. Well, the way we are running up there on the shift work, it runs for thirty days.

Q. I see, well, do you have any way, independent of checking the records at the courthouse, at the jail, to know whether or not you worked on Friday, May the 24th?

[658] A. Sure I can.

Q. You did work that day?

A. I say I can check and see if I worked.

Q. Oh, I'm sorry, you can check?

A. I can't say just off-hand.

Q. Whether you worked or didn't work, the only instructions you were, you ever got, were May the



25th, the day of the hanging, at 2:00 o'clock, or 2:30 when you came on?

A. That is correct, sir.

Q. If I remember right, the only instructions you received was just to keep an eye on Reagan, a close eye on Reagan, I believe that was the words you used?

A. They told me what he had done, and I wasn't there when it happened.

Q. Yes, sir.

A. And that's the reason why they talked to me to keep an eye on him.

Q. In compliance with that order, you went up there at 3:00 o'clock and looked at him?

A. That's right, sir.

Q. And talked to him briefly?

A. That's right, sir.

Q. How long do you estimate that it was, Mr. Barber, [659] that—well, strike that question and let me ask this question first. Did you, you called the Sheriff, did you call anyone else?

A. Judge Dunne.

Q. Who else did you call?

A. Well, now I don't recall whether I called the Chief Deputy or not, but those are the two men that I did call. I called them because I wanted them up there as quickly as possible.

Q. The Sheriff and who else?

A. Judge Dunne.

Q. Judge Dunne?

A. Yes, sir.

Q. And Judge Dunne, I presume, was in his office?

A. Yes, sir.

Q. And he came on up there, too?

A. Right.

Q. Did everybody go up together to see Reagan, from downstairs up to where Reagan was?

A. Yes, sir, yes, sir.

Q. Do you recall whether Sheriff, whether Judge Dunne, who for the record is now deceased, also, Dunne is dead?

A. Yes, sir, he is deceased.

Q. All right, do you recall whether Judge Dunne [660] got there before the Sheriff, the Sheriff or, or did the Sheriff get there before the Judge?

A. Well, my recollection is that they got there about the same time.

Q. All right, and about how long was it before they got there, Mr. Barber, the best you remember?

A. Well, sir, I'll tell you that in a case like that, the time seemed like it was longer than it really is, but I'd say approximately ten or fifteen minutes.

Q. All right, your best, your best estimate would be about ten or fifteen minutes?

A. Yes, sir.

Q. And there might be a little variation even from that, but that is your best estimate?

A. Well, that's what I would judge it was, somewhere in there.

Q. All right, so you called the Sheriff and the Justice of the Peace, and perhaps the Chief Jailer, that would be Mr. Lowrance?

A. I mean the Chief Deputy.

Q. Oh, the Chief Deputy, I'm sorry, maybe I, maybe I made the mistake.

A. If I did say Chief Jailer, I meant the Chief Deputy at the time.

[661] Q. I think you probably said that, Mr. Barber. Well, anyway, after this ten or fifteen minutes interval, everybody gathered and you marched on up to the second floor of the jail?

A. The sixth floor.

Q. Well, the second floor—

A. —The second floor from the jail office, yes, sir.

Q. We've been referring to it that way, so I just thought I would do so, so it won't get too confused.

A. Yes, sir, right.

Q. And you proceeded to this cell where Reagan was?

A. Yes, sir.

Q. You-all went on in there, and who cut him down?

A. I did.

Q. You cut him down?

A. Yes, sir.

Q. Who checked to see if he was still alive?

A. Well, the Sheriff and Judge Dunne checked him.

Q. I see.

A. And gave me orders to cut him down.

Q. And as near as you can recall, was Reagan Logue discolored or did he have any discoloration?

A. Sir?

[662] Q. What was his complexion or color when you walked in the cell?

A. Well, he had a, kinda a darkish color.

Q. All right.

A. As well as I can recollect.

Q. Did you feel of his body?

A. Sir?

Q. Did you feel of his body?

A. I did.

Q. Was it cold or warm or normal?

A. It was getting cold.

Q. Getting cold?

A. You could tell it was, wasn't warm particularly, you could tell he was beginning to get a little cool.

Q. Will you be on duty this evening, Mr. Barber?

A. I will be on duty tonight. I work graveyards.

Q. What time do you go on?

A. 10:30.

Q. Who would be on duty this evening?

A. Well, the Chief Jailer is on duty at the present time.

Q. I see.

A. And he will be there until he is relieved, his relief may get there at 4:00 or 5:00 o'clock. [663] Now I couldn't say just what time.

Q. If you had been on duty on May the 24th, that was the day before, or the evening before this, you don't recall receiving any particular kind of instructions pertaining to Reagan that day?

A. I did not.

Q. All right, you did not receive any?

A. No, sir, I sure didn't.

Q. And consequently you would, you would have made no effort to check him particularly on May the 24th, although nothing happened that day?

A. No, sir.

Q. You would have made no effort to check him particularly because you didn't receive any instructions, is that correct?

Mr. Bowers: I think Counsel's question is assuming something is in evidence that is not in evidence. I don't think there is any need nor a duty—

The Court: —I think that's right—

Mr. De Anda: —This is all predicated, I intend to check the Sheriff's records to see if he was on duty, and I just don't want to have to call him back. I don't [664] think he will testify any differently regardless of what the records show, and if the records show he was not on duty, I have only wasted about a couple of minutes of time.

The Court: Well, as long as you are going to try to check it, connect it up, that's all right, of course—

Mr. De Anda: —It's just so I won't have to call him back, Judge, if that is permissible.

The Court: Yes, sir.

Mr. De Anda: Thank you.

By Mr. De Anda:

Q. I recognize from what you are, you have told us, Mr. Barber, that you are not at all certain that you worked the evening before, and I don't want to intimate that you did. What I am saying is, because you don't remember, what I am saying is, though, if you did, you made no particular effort on that evening because you had received no instructions pertaining to Reagan Logue?

A. Well, I check the jail every day, sir.

Q. Well, other than your normal, your usual checks of the jail, and I am not trying to say you did [665] not check the jail, what I am trying to ascertain is that you would have made no effort other than your usual efforts as required by your duties to, to check the prisoners. I understand that at night you have somebody that has to check them every hour, for example—

A. —Yes, sir, and they are pretty well checked in the daytime, too.

Q. All right, what I am saying, though, you would not have taken any special precautions with reference to Reagan Logue the evening before?

A. Well—

Q. —Because you had no instructions?

A. No, sir, I didn't even know the man was there the evening before.

Q. All right, sir, thank you very much, Mr. Barber.

Mr. Bowers: We have no questions, Your Honor.

The Court: You may step down, please, Mr. Barber.

Mr. De Anda: Might we ask and impose upon Mr. Barber further, to the extent, that if he will, to get someone at the jail to check the records, whatever records are appropriate, and have them available [666] for us when, after 5:00 o'clock today, because I know everybody goes home down there, and we may need them early tomorrow morning, and it will just save us some time, if you could call someone down there and explain what we need, Mr. Barber. Now what those records are, I don't know, but I would appreciate it very kindly.

The Witness: What you want to know is whether I was on duty the day before?

Mr. De Anda: Yes, sir.

The Witness: Is that correct?

Mr. De Anda: And also Mr. Reyna, if you don't mind. Would you do that?

The Witness: Sure will.

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WITNESS EXCUSED

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Mr. Pain: We will call W. E. Strait.

(Oath administered to the witness by the Deputy Court Clerk.)

[667]

W. E. STRAIT,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Pain:

Q. Will you state your name, please, sir?

A. W. E. Strait.

Q. How are you employed, Mr. Strait?

A. Deputy Sheriff of Nueces County.

Q. How long have you been so employed?

A. Since July, July the 11th, 1963.

Q. Do you live here in Corpus Christi?

A. I do.

Q. Do you have occasions to perform guard duties at the hospitals?

A. Yes, sir.

Q. Did you have the occasion to perform any guard duties in connection with Reagan Logue in May of 1968?

A. I did.

Q. Do you recall when that was?

[668] A. The first night that he was in there.

Q. In the hospital?

A. Yes, sir.

Q. Do you know what he was admitted to the hospital for?

A. He had cut his wrist, I understand.

Q. And where was he when he had cut his wrist?

A. Over at the County Jail.

Q. Did someone request that you stand guard?

A. Yes, sir.

Q. Who was that?

A. Well, it was handled through Mr. Bowers.

Q. That was the Deputy Marshal Bowers?

A. Yes, sir.

Q. What time do you recall going on duty?

A. Around midnight.

Q. And where did you go on duty?

A. At Memorial Hospital, the seventh floor.

Q. The seventh floor?



A. Yes, sir.

Q. Where were you in relation to Reagan Logue when you were standing duty?

A. I was right outside of his door, not too far from the door.

Q. And he was in a room?

[669] A. Yes, sir.

Q. Was the room that he was in locked?

A. Yes, sir.

Q. Did you have the key?

A. No, sir.

Q. Did anyone visit the boy while you were there?

A. Yes, sir.

Q. Who was that?

A. His mother.

Q. How long did she stay?

A. I would say she stayed with him from around thirty to forty-five minutes.

Q. Did she go in and talk with him?

A. Yes, sir.

Q. Did anyone else come up to see the boy?

A. Well, his step-father came up with his wife.

Q. Did he go in and visit with the boy?

A. No, sir.

Q. What kind of, was there any type of surveillance by the hospital people of Reagan Logue while you were on guard there?

A. Well, ordinarily they make their rounds ever so often and they go peep in the windows to see if he was all right.

Q. Did they do that?

[670] A. They do that quite often, yes, sir. In fact, they let his mother in the room to talk to him.

Mr. Pain: Pass the witness.

### CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. Strait, do you frequently perform guard duty?

A. I do.

Q. For the Marshal?

A. For the Marshal and for the Sheriff's Department, also.

Q. I suppose you welcome the extra income?

A. Well, naturally.

Q. And I suppose most of you fellows would be available for that if asked?

A. If they are not on duty at the time, yes, sir.

Q. Well, they always have a little more, a lot of the Deputies, Deputy Sheriffs that are not on duty, on off-duty than on-duty, because of the twenty-four hour around-the-clock operation?

A. Right.

Q. Would you take as much of that guard duty as you could get?

[671] A. I have done quite a little of it, yes, sir.

Q. And I suppose most of you fellows are available for that, and like I say, welcome it?

A. Right.

Q. Because it is extra income for you?

A. Right.

Q. Mr. Strait, I thank you very kindly.

Mr. Pain: I have no further questions.

The Court: You may be excused.

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WITNESS EXCUSED

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Mr. Bowers: Mr. James Stone.

Your Honor, while the witness is coming, we have two exhibits which have been marked as Defendant's Exhibit 2, and Defendant's Exhibit 1. They reflect the academic record or excerpts, and I believe copies have previously been furnished to Mr. De Anda.

Mr. De Anda: Oh, yes.

Mr. Bowers: And we understand there will not be any objections to the authentication [672] of them, and we offer them at this time.

Mr. De Anda: Just a minute—

Mr. Bowers: —Sir, will you come to the Clerk's desk and be sworn, sir?

(Oath administered to the witness by the Deputy District Court Clerk.)

Mr. Bowers: Do I understand Defendant's Exhibits 1 and 2 will be admitted, sir, is that correct?

The Court: You raise no objections?

Mr. De Anda: No, sir.

The Court: They are admitted.

Mr. Bowers: Thank you, sir.

[673]

JAMES L. STONE,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

#### DIRECT EXAMINATION

By Mr. Bowers:

Q. Mr. Stone, please state your name, address, and occupation for the record, please?

A. James L. Stone, 7002 Pharaoh, Principal at Shannon Junior High School.

Q. All right.

Mr. De Anda: I'm sorry, where?

The Witness: Shannon Junior High School.

By Mr. Bowers:

Q. Were you previously assigned to King High School here in Corpus Christi?

A. Yes, sir.

Q. All right, sir, in what capacity and when?

A. I was the First Assistant Principal from 1965 until 1969.

Q. What were your duties in that job, Mr. Stone?

A. My principal duties were attendance and [674] discipline and the general mechanics of school.

Q. All right, sir, all right, sir, now during that period of time, did you have occasion to come into contact with a student named Reagan Logue?

A. Yes, sir.

Q. All right, sir, and in what capacity did you contact Mr. Logue?

A. I saw him on referrals from, discipline referrals from teachers, and in dealing with him on attendance problems.

Q. All right, sir, first of all, with the attendance problem, that was a material part of your responsibility and your job at that time, sir?

A. Yes, sir.

Q. All right, sir, now could you give us an estimate of approximately how many times you had questions raised by Mr. Logue's attendance?

A. Well, they were frequent. I couldn't give—

Mr. De Anda: —Just a minute, I'm going to object. As far as the questions raised about Mr. Logue's attendance, if it is anything, I think this is a hearsay approach to the inquiry, and I'm going to object to anything based on hearsay. I [675] don't have any objections to any conversations he may have had with, with Reagan Logue, as such, at least I am not making that objection now, but I do object to the attendance problem in that that necessarily is based on hearsay that he obtained from somebody else.

The Court: Do you have any objections to his testifying as to how many times the matters were

referred to him with regard to Logue? I don't see that that is any problem.

Mr. De Anda: Judge, I would even object to that, because that would also call for hearsay. I would not object if I knew that the people called him, or something, and eventually he's going to have to testify to that, but I am not—

The Court: —I'm not talking about what somebody told him, just that they did refer him on that particular—

Mr. De Anda: —I would object, yes, sir, to anything other than perhaps a number of times that he talked to Reagan Logue. I wouldn't object, I don't think, I don't [676] think there would be anything I could say about it, but I would object to anything as to whether or not someone referred Reagan Logue to him, I think that calls for hearsay.

The Court: Do you think you can handle your question within his objection?

Mr. Bowers: No, sir, I think what we need to do is ask him how many times he investigated a complaint of truancy, the truancy of Reagan Logue, and I think I am entitled to do that, sir. He would know whether or not a complaint was made, and he would know the investigation that he made, that would be a matter within his own knowledge.

The Court: The complaints made to him, I'm going to overrule the objection.

Mr. De Anda: You're going to overrule my objection? I would object to it as the matter being hearsay, Judge.

The Court: All right.

By Mr. Bowers:

Q. Can you give us an estimate of the number of times that you conducted an investigation or [677] inquiries into Mr. Logue's attendance record at school?

A. It was my job to observe the attendance of students, and when they were absent, any time they were absent, they had to come and see me before they could be readmitted to school.

Q. How many times did you have the occasion to interview Reagan Logue in this connection?

A. I'd have to estimate it, but I could say at least ten times.

Q. At least ten times? Sir, all right, could, could you tell us whether or not it could have been more?

A. It could have been more, and probably was more.

Q. In what other capacities did you see Logue in?

A. As he was referred to the office for disciplinary reasons.

Q. Approximately how many times was that?

A. I would say that Reagan was referred seven or eight times for that, too.

Q. Seven or eight times? Now approximately how many students were in King High School at that time, sir?

A. About eighteen hundred.

Q. There were a number of, at least ten investiga-

tions [678] for, on the attendance basis, and eight or ten times during the course of that year over disciplinary matters—

Mr. De Anda: —I don't believe he said that it was over the course of the year; I think he said he saw him that many times.

Mr. Bowers: I will be glad to rephrase the question.

Mr. De Anda: Well, ask him over what period of time.

Mr. Bowers: Let me ask my own questions.

Mr. De Anda: I'm going to object to the question he has asked, he's putting words in the witness' mouth, saying it being over the course of a year, and the witness hasn't testified to that, in fact.

The Court: You may rephrase your question.

Mr. Bowers: Thank you, sir.

By Mr. Bowers:

Q. Mr. Stone, over what period of time were you associated with Logue under your supervision in that capacity?

A. He was in school one full year, from '65 and '66, and a half year in the year of '66-'67.

Q. All right, sir, now the number of times for the [679] attendance and the disciplinary questions that were raised, was that over that same period of time?

A. Yes, sir.



Q. Okay, now could you tell us whether, based on your experience, that is in excess of, or just about equal to, or less than the number of times that the average male student would be called in on such matters?

Mr. De Anda: Your Honor, I really don't see the relevancy of that question at all. If there is any such figure available, I still don't see the relevancy of it, in the average student being called in.

The Court: I think it could be relevant.

By Mr. Bowers:

Q. Could you answer the question, please, sir?

A. This is more than an average student.

Q. All right, sir, well, I will call your attention sir, to a question about, about departing from class with reference to Reagan Logue, and particularly in an English class, do you recall that instance, sir?

A. Yes, sir.

Q. Okay, will you tell us about it, please?

[680] A. Reagan walked out of his English class and told his teacher he was—

Mr. De Anda: —Now just a moment, Your Honor, I'm going to object to any hearsay that this witness got from anybody because it is hearsay unless he was present whenever the occurrence took place.

The Court: All right, I believe that is a proper objection and I will sustain it.

Mr. Bowers: May I ask him, sir, if he recalls investigating an allegation of such an incident?

The Court: You can ask him if he did make such an investigation.

By Mr. Bowers:

Q. Did you make such an investigation, Mr. Stone?

A. Yes, sir.

Q. All right, sir, and as a result of that investigation, what did you do as a consequence, what disciplinary action did you take?

A. I told Reagan that since he had dismissed himself from the class that—

Mr. De Anda: —Your Honor, the question is not, the answer is not responsive. He asked what disciplinary action the witness [681] took, and I think he may—

The Court: —Just ask him what happened and that will stop the problem.

By Mr. Bowers:

Q. I'm sorry. What happened as a result of that?

A. I did not allow Reagan to take his final examination.

Q. All right, sir, and as a result of the inquiry that you made there, were there other matters, without going into and telling us what they were, were there other matters with regard to other classes that were, that were, that came to your attention at that time?

A. Yes, sir.

Q. All right, sir, and tell us what happened to Reagan in the matter of disciplinary measures as a result of these items.

A. We, upon investigation, we found that he had—

Mr. De Anda: —This, again, Your Honor, I'm going to object to any investigation that this man made and what his investigation disclosed as being, if it is based on hearsay, but what he personally did, it might be admissible, but what anybody told him or what his conclusions are as to [682] his investigations, that is rank hearsay, and conclusions, and not made for any purpose whatsoever in this case.

Mr. Bowers: My question was, what went, what has, what was done as a result of the investigation.

The Court: What he did?

By Mr. Bowers:

Q. Mr. Stone, what, of your own personal knowledge, did the school do?

A. We did not let Reagan take the test in several of the other subjects, too.

Q. All right, can you tell us whether or not Reagan was ever suspended from school?

A. Yes, sir.

Q. On how many occasions, sir?

A. I have, I can't accurately answer that question. I remember suspending this boy from school, I would say, I would say several times.

Q. Can you—

A. —And this was in regard to the truancy.

Q. Are you able to give an estimate of that, sir, about how many times this occurred?

A. I suspended him for a conference with his parents, I'd say at least two or three times.

[683] Q. Two or three times, sir, was there a final suspension from King High School?

A. Yes, sir.

Q. All right, sir, what was the occasion of that, without going into the details of what you were told by anyone?

Mr. De Anda: Your Honor, I'm going to object if he was suspended from King High School, and if it is something that occurred in the witness' presence, he can testify about it, but I do not think it would be admissible otherwise, I think it would be hearsay and improper and irrelevant.

The Court: He can testify whether or not he was suspended.

Mr. De Anda: Yes, sir, I believe he has done that.

By Mr. Bowers:

Q. Read the question back, please?

(And thereafter the following question was read back by the Court Reporter and is as follows: "All right, [684] sir, what was the occasion of that, without going into the details of what you were told by anyone?"')

By Mr. Bowers:

Q. All right, sir, what, what, what was, excuse me, sir, what was the occasion of the final suspension of Mr. Logue from King High School, without relating the incident upon which it was based?

Mr. De Anda: Your Honor, of course, he doesn't relate the incident and he doesn't know what he means by an objection, by an occasion, but he means what occurred and which did not occur in the witness' presence and that would be based on hearsay and a conclusion on the part of the witness, and to which I would object to it on those grounds.

The Court: I am—

Mr. Bowers: —Your Honor—

The Court: —It seems to me like he should be able to testify as to why he was suspended. That doesn't necessarily mean those factors are true, but if he was [685] suspended for a particular reason, I think he is entitled to say what this reason was.

Mr. De Anda: I don't, and I don't want to belabor it, Judge, I don't want to belabor the matter, but I, may I make an additional comment?

The Court: All right.

Mr. De Anda: Why he was suspended, if it is not admitted for the truth of the matter, it has absolutely no relevancy to the case. What these people did is not any, is not in issue here. All they are interested

in, from the matter of this record and this evidence, is those matters that would effect the issues here, which are either liability, on which this witness, this witness could not testify, or damages, which is the only relevancy that his testimony would have. Now if these are actions of the school, then they can, they can not in any way reflect on Reagan Logue except insofar as his conduct was because of them, and if we are not going into his conduct, and if it is not admitted for that purpose, then, Your Honor, it really [686] has no purpose in this case. Now it is true we have gone into much hearsay in this trial in other matters, but if the Court will recall, that testimony has been restricted to certain, for certain purposes, specifically as applied to the parents, and their knowledge, and their relationship with the boy, which, I think, they probably are legitimate areas of inquiry in a death case. But now we are getting into an independent witness here, and his knowledge, or the conduct of third parties, and the conduct of the school in suspending him, those are no more relevant than the conduct of the policeman in arresting him at all, except as it, it might apply to this case, and the circumstances surrounding it. But not just an arrest in general, or suspension in general; these are, these are acts of third people motivated by matters which are not before the Court, and about which this witness apparently has no personal knowledge, other than what he obtained through hearsay, and I want to be sure that the Court understands my [687] purpose and reasons for objecting to the, to the matter.

The Court: I'm going to go ahead and let it in.

Mr. Bowers: All right, sir.

By Mr. Bowers:

Mr. Stone, was a complaint received from the authorities, without stating what it was, with reference to Reagan Logue's conduct, that is, police action?

A. Yes, sir.

Q. All right, sir, as a result of that complaint, what happened with regard to his final suspension from King High School?

A. As a result of this, he was suspended.

Q. All right, sir.

Mr. Bowers: That's all, Your Honor, that we have of this witness. We pass him at this time.

[688] CROSS EXAMINATION

By Mr. De Anda:

Q. What year was this, Mr. Stone?

A. Are you referring to the final suspension, is that what you are referring to, I'm not sure that I understand your question?

Q. Well, you say he was suspended and the judgment, the record will show he was suspended and he tried to commit suicide over it, I believe.

A. Are you asking what year he was suspended?

Q. Yes, sir.

A. This was in 1967.

Mr. De Anda: All right, I believe that's all I have, thank you, Mr. Stone.

Mr. Bowers: We have no further questions, Your Honor.

The Court: All right, you may be excused, Mr. Stone.

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WITNESS EXCUSED

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Mr. Bowers: Mrs Allard, please, Laura [689] Allard.

Your Honor, perhaps we may save a minute here —Mrs. Allard was called to explain the testing—

Mr. De Anda: —Let her testify, she's here.

Mr. Bowers: I don't think she's been sworn, if you would, Mrs. Allard.

Mr. De Anda: That is Exhibit what?

Mr. Bowers: Exhibit No., I think, I don't recall whether it is 1 or 2.

(Oath administered to the witness by the Deputy Court Clerk.)

Mr. Bowers: Mrs. Allard, will you have a seat over there?

(Discussion held off of the record.)



[690]

MRS. LAURA ALLARD,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

### DIRECT EXAMINATION

By Mr. Bowers:

Q. Mrs. Allard, would you state your name, address, and occupation for the record, please?

A. Laura Allard. I am Counselor at Moody High School.

Q. All right, were you previously stationed at W. B. Ray High School?

A. Yes, sir.

Q. In that same capacity?

A. Yes, sir, as a Counselor.

Q. What education, training, and experience do you have as a Counselor in high school academics?

A. I have received my B.A. Degree from Chicago, at a Teacher's College, and my Master's Degree in Personnel and Guidance work at Northwestern University. I have been a Counselor, this is my seventh year.

[691] Q. Now what are the duties of a Counselor in the position that you are in at W. B. Ray Senior High School, Corpus Christi?

A. Well, you counsel with students concerning their academic program, their college or after, post-high school programs, personal problems, if they have any, and if they choose to discuss these with you, and testing when the time comes. I was, at Ray I was

Test Supervisor, scheduling, changing classes, that type of thing.

Q. Mrs. Allard, what type of test or testing programs were in effect at W. B. Ray High School in the year of 1965-66, that school year?

A. Well, when I say Test Supervisor, I mean that I was in charge of seeing that the College Board Aptitude Tests were given, and was in charge of the Otis test administered to Juniors.

Q. What is your College Board test?

A. The CEEB?

Q. Yes.

A. It is called the College Entrance Examination Board, and it is composed of two tests that you take if you plan to attend college.

Q. All right, basically what is the function of this test, and what is done with the results of [692] it?

A. Well, the function of the test is to determine each student's academic preparation or ability in relation to other students who also are college bound, and the results of it are certified to the individual College to which a student might apply and to his high school.

Q. All right, well, Mrs. Allard, in your capacity as a Counselor at W. B. Ray Senior High School back in 1966, '65, and '67, did your job require that you become familiar with and know the requirements of various higher educational institutions in this State and other areas?

A. Yes, sir.

Q. And to work with them in connection with counseling students as to the administration requirements and other matters?

A. That's right.

Q. Now specifically, were you familiar with the administration requirements of the University of Texas at that time?

A. Yes, up until this present year. In order to enter the University of Texas, on the SAT, or the CEEB, you had to score, if you scored below eight hundred you had to graduate in the five, [693] upper five percent of your class—

Q. —I see—

A. —and if you score between eight hundred and a thousand and graduated in the upper half of your class, you are accepted. If you made over a thousand, that is a combined verbal and math score, you were admitted automatically.

Q. All right, now, Mrs. Allard, we have what has been marked for identification and introduced into evidence a letter on the W. B. Ray Senior High School stationary, reflecting that, reflecting Reagan Logue's standing on the C, double E, B Aptitude Test, and certain other information. Would you examine those figures, please, ma'am?

A. (Witness looking at instrument)

Q. Now examining this, will you tell us whether or not that, looking at the class standing of four hundred and eighty-one in a class of five hundred and eighty-four, and with a total of six hundred and fifty-five points, as to whether or not Reagan Logue would have been qualified for admission into the University of Texas upon completion of his high school work?

A. No.

[694] Q. All right, now it is true, is it not, that he

could perhaps have qualified for other colleges, is that right?

A. That is true.

Q. Now have you had the occasion in the course of your professional work to be required to form an opinion as to whether a student could handle successfully college level work, or whether he would be a good college risk, and advise people in accordance with these opinions?

A. I don't know that I understand all of your question.

Q. Okay, have you, in the course of your job as a Counselor, have you had the occasion to evaluate testing records, performance records in school, and to form opinions, in your capacity as an educator and tester, as to whether or not someone would be a good or a bad risk for higher education?

A. If your question means—if a student would come to me and ask me in my capacity as a Counselor to give him advice as to whether I think that he could succeed on the basis of his test scores, rank in class, and what I know about the entrance requirements of a particular [695] college and university, I would be able to give him this information, but it would have to be in terms of a specific college because they vary.

Q. In other words, I take it from your testimony that you would not be able to form an opinion about the risk?

A. No.

Q. Okay, I withdraw that question then.

Mr. Bowers: I think that's all, Your Honor, we will pass the witness.

## CROSS EXAMINATION

By Mr. De Anda:

Q. How often are these tests that we are talking about administered, Mrs. Allard?

A. They are administered five times a year.

Q. Five times a year?

A. Yes, sir.

Q. This particular test that we have reference to was apparently administered in December of 1966?

A. Yes, sir.

Q. Can you tell me if you would expect, over a two-year interval, or one year and a half interval, [696] for a test, a person's test to, to increase, say this test was taken when a child was, oh, sixteen years of age, and by the time they are eighteen, might you expect a higher grade on the test, or could you answer that?

A. Yes, basically a score, they give you a thirty point variance, thirty points above or below this figure if you are to retake the test.

Q. This six hundred and fifty-five?

A. Yes, sir.

Q. You mean if you retake it two months later, or three months later, you are going to increase it, you might increase it thirty points or—

A. —Or might decrease thirty points.

Q. Might decrease thirty points, and if you take it two or four months after that, you would increase it another thirty points?

A. No, sir, by and large it would probably not vary more than thirty points than what the others are.

Q. For the rest of your life?

A. That's what the statistics have shown.

Q. Okay, well, that's what I wanted to find out. And you say that—of course, if a person was ill, or mentally disturbed at the time he took [697] this test, it wouldn't be truly indicative of his intelligence, is that right?

A. That's right.

Q. And if later on a person that took this kind of a test, while he was mentally disturbed, or for whatever reason there might be, took the test after rehabilitating himself, or curing himself of the illness, the test might be substantially higher?

A. It could be.

Q. Beg pardon?

A. It could be, yes.

Q. In other words, you could not place—if they told you, "Look, the person that took this test was insane, or on the verge of it," and the results, as far as any permanent determination of that person's intelligence or ability, wouldn't be worth a plug nickel, would they, depending on the disease and so forth?

A. I don't know that I really understand that because your question—

Q. —Well, all right, let me see if I can rephrase it. If a person was psychotic whenever they took this test, and by psychotic I mean crazy—

[698] A. —Yes, I understand.

Q. —to some degree mentally unbalanced or mentally deranged—

A. —Right—

Q. —or suffering from such a condition, could you stake your reputation here on what you have testified about that test and its results?

Mr. Bowers: Your Honor, I hardly think the question of staking her reputation on it is an appropriate way to approach it. I think the question should be whether or not a valid opinion could be rendered on it.

The Court: I think, isn't that about the same thing?

Mr. De Anda: That's what I thought.

By The Witness:

A. Well, you understand that as a Test Supervisor, giving the test, I am in no way aware of your mental state, the mental state of any person who takes it.

Q. I understand that.

A. Okay.

Q. Absolutely. Let's assume that you gave this test, and you got these results on Defendant's Exhibit [699] No. —what is that?

Mr. Bowers: 2.

By Mr. De Anda:

Q. 2, and later on you found out that this particular individual was psychotic, was mentally ill, would the test be, would the test be indicative of his intelligence at that time under those conditions?

A. Right.

Q. Because there is the test—

A. —That's exactly right—

Q. —And what I am asking you is, is it a valid

and true indication of that, that person's ultimate capabilities if he later became well?

A. Probably not, but he would not be taking this test later, because this is strictly a test that is given only to youngsters at this particular time in their life.

Q. All right, all right, but he wouldn't be taking this test later because the purpose of this test, I guess—

A. —Right—

Q. —is to get to college?

A. That's exactly right.

Q. But then the test and its results would not be [700] valid insofar as that particular person is concerned insofar as it might lend knowledge to his innate intelligence?

A. No, but this test would qualify, would permit him to enter some colleges as the score stands right now.

Q. I think the Judge understands what I am trying to ask you, and I think he understands your answer, but I am not sure that I do. I guess I don't.

The Court: I don't think it is pertinent anyway.

Mr. De Anda: All right, sir, then I don't have any more questions. I can take a hint, thank you, Mrs. Allard.

The Witness: Okay.

Mr. Bowers: I think that's all from this witness, Your Honor.



The Witness: Thank you.

Mr. Bowers: Thank you, Mrs. Allard. If I may, I will hand this back to the Clerk.

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WITNESS EXCUSED

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[701] Mr. Pain: We will call Sam Roberts.

Mr. Bowers: And I might add that this will be a fairly long witness.

(Discussion held off of the record.)

Mr. Pain: Come around here.

(Oath administered to the witness by the Deputy Court Clerk.)

SAM J. ROBERTS,

was called as the next witness on behalf of the Government, first being duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Pain:

Q. Would you state your name, please, sir?

A. Sam J. Roberts.

Q. How are you employed, Mr. Roberts?

A. I am a Supervisor with the Bureau of Narcotics and Dangerous Drugs.

Q. And where are you stationed?

A. Chicago, Illinois.

[702] Q. How long have you been in the Bureau of Narcotics and Dangerous Drugs?

A. Since the merger in 1968.

Q. And what was the Bureau of Narcotics and Dangerous Drugs prior to the merger?

A. I was with the Bureau of Drug Abuse Control prior to that time.

Q. And how long were you with that organization?

A. Since its initiation in 1966.

Q. And now both of those agencies that you described are federal agencies, are they not?

A. Yes, sir.

Q. How were you employed prior to 1966?

A. I was with the Food and Drug Administration as an Inspector.

Q. And how long were you so employed?

A. Since 1962.

Q. What was your employment prior to that?

A. None.

Q. You were a student?

A. Yes, sir.

Q. During your tenure as an agent with the Food and Drug, what were your duties?

A. Primarily my duties were, with the Food and Drug Administration, were the enforcement of the [703] Food and Drug laws related to illegal distribution of pills, and amphetamines, and barbituates, and those types of drugs.

Q. And what were your duties with the, what was that second agency?

A. The Bureau of Drug Abuse Control.

Q. What were your duties with the Bureau of Drug Abuse Control?

A. My primary duties with them was to investigate both covertly and, and openly the trafficking of dangerous drugs.

Q. And your duties now with the Bureau of Narcotics and Dangerous Drugs?

A. Sir?

Q. And your duties now with the Bureau of Narcotics and Dangerous Drugs?

A. Mainly the management, or a supervisory capacity, supervising a group of agents who are enforcing the Federal Narcotics and Drug Laws.

Q. And you were with the Bureau of Drug Abuse and Control during the early part of May, of '67, is that correct?

A. In '68, '68.

Q. Early—okay, were you with them also in the early part of '67?

[704] A. Yes, sir.

Q. And all during '67 and the early part of '68, too?

A. Yes, sir.

Q. Did you have the occasion to have an assignment concerning the Plaintiff in this, excuse me, the deceased in this case, Reagan Logue?

A. Yes, sir.

Q. And explain what the circumstances of that particular assignment were?

A. To go into the Austin, Texas area in an under-

cover capacity and investigate traffic in dangerous drugs and, and also marijuana.

Q. And how long did this undercover investigation work of yours in Austin, during this period of time, last?

A. Approximately, approximately two months.

Q. From what period of time to what period of time?

A. From the first part of February, 1968, until, until about the 1st of April of '68.

Q. And did you become acquainted with certain individuals in that area who trafficked in drugs?

A. Yes, sir.

Q. What was your first contact with these individuals?

[705] Mr. De Anda: Your Honor, I ask, if the Court please, that this man's testimony be limited to what, to Reagan Logue, and his personal contacts, or what he personally knows or observed with Reagan Logue. I don't, I don't think, I think it is improper and prejudicial and improper for the witness and the government to go into the direct traffic as it concerns other individuals. It is not relevant to any issue in this case at all.

Mr. Pain: I believe that the evidence to be obtained from this particular witness will show that all of these other individuals also were very closely connected with Reagan Logue, and I think that would be relevant.

The Court: We are just concerned with Reagan Logue, and his, his history up to the time of his death.

I don't know that any other individuals, what they did or might have done would be particularly pertinent. I think you are, you are going to have to confine your questions with regard to Reagan Logue's activities.

[706] Mr. Pain: All right, sir.

By Mr. Pain:

Q. During this undercover investigation work that you performed in the early portion of 1968, did you have the occasion to come into contact with Reagan Logue?

A. Yes, sir.

Q. And you got to, to know this boy, is that correct?

A. Yes, sir.

Q. Where was the first contact that you had with him, when and where?

A. On February the 20th of 1968, at an apartment where he was living, 408 West 37th Street, in Austin.

Q. In Austin?

A. In Austin, Texas.

Q. What contact did you have with him, would you describe that, please?

A. Yes, sir. I was introduced to Reagan Logue by another student at the University of Texas named Terry Martin. At the residence I also met three or four other individuals that were present at the same time. I went to the residence for the purpose of purchasing a kilo [707] of marijuana.

Q. And did you make that purchase?

A. Yes, sir.

Q. And from whom did you make the purchase?

A. From Reagan Logue, and Paul Gill and Terry Martin was also involved in that purchase. Reagan Logue took, received the money for it.

Q. How much marijuana did you buy?

A. Between seven hundred and eight hundred grams of marijuana.

Q. How much did you pay for it?

A. A Hundred and Forty-five Dollars.

Q. How much is a gram, how many grams are in a kilo?

A. One thousand.

Q. Now would you translate a kilo into pounds so that the Court and the lawyers would be more familiar with it, how many pounds in a kilò?

A. Two point two pounds.

Q. So translated into pounds, there was a little bit less than two pounds?

A. It was a little less than two pounds.

Mr. De Anda: More than two pounds, two pounds, approximately two pounds.

The Witness: Approximately two, it was, [708] well, specifically, I think it was seven hundred and sixty-eight grams, I think was in that purchase.

By Mr. Pain:

Q. All right, roughly two pounds?

A. Roughly two pounds.

Mr. De Anda: All right.

By Mr. Pain:

Q. Do you recall the grade of marijuana, was it good, bad, or indifferent?

A. It was in crude brick form.

Q. Did you have any subsequent contact with Reagan Logue?

A. Yes, sir, I did.

Q. And when was that?

A. On February the 23rd, 1968.

Q. And would you describe that contact with him?

A. Yes, sir, I met Reagan Logue over at 408 West 37th Street, in Austin, Texas, and subsequent to that meeting, I purchased one hundred and one mescaline capsules from Reagan Logue. I think it was Paul Gill who was also present there during that purchase.

Q. What did you pay for that?

A. Three Hundred Dollars.

[709] Q. And what is mescaline?

A. It is a hallucinogenic drug derived from the peyote cactus plant.

Q. Does it have similar effects upon a person as does LSD?

A. Yes, it is a hallucinogenic drug considered as a milder form than LSD.

Q. Did you have a subsequent contact with Reagan Logue after the one mentioned on February the 23rd, 1968?

A. Yes, sir.

Q. And when was that?

A. On March the 3rd, 1968.

Q. And what happened then?

A. I purchased ten LSD capsules, and about thirty-six grams of marijuana from him during this visit.

Q. And that was in Austin?

A. 408 West 38th Street.

Q. And what did you pay for this buy?

A. I paid Fifty Dollars for the LSD, and Ten Dollars for the marijuana.

Q. Did you have a subsequent contact with Reagan Logue?

A. Yes, I did.

[710] Q. And when was that?

A. On March the 13th of 1968.

Q. And what occurred then?

A. I went to 408 West 37th Street about 10:00 o'clock in the evening. Reagan Logue arrived and had everyone assembled in one of the rooms in this, at that particular address. And—

Q. —About how many people were there?

A. Oh, around ten.

Q. And what occurred then?

A. He informed us that he had just returned from Corpus Christi, Texas; that he had visited with David Parrott in jail in Corpus Christi; and he said he was, had received instructions from David Parrott with reference to organizing his drug operations. He said that he was going to move to another apartment and was going to maintain the residence at 408 West 37th Street to keep the drugs. He further advised that he was going to establish some fronts such as nightclubs with some of the profit from, from the trafficking in drugs to show a profit, to keep the Internal Revenue Service from investigating their organization.

Q. Did Reagan Logue conduct this meeting?

[711] A. Reagan Logue was the leader and conducted the meeting himself.



Q. How long did it last?

A. Around ten, fifteen minutes.

Q. Did you have any subsequent contacts with Reagan Logue?

A. Yes, I did.

Q. And when was that?

A. On March the 16th of '68.

Q. Would you explain that, please?

A. Yes. Reagan Logue moved to another address, it was 617 West 24½ Street, Apartment B; he moved there subsequent to his, shortly after this meeting on 3-13-68. During my conversation with Reagan Logue at this new apartment, I mean, not the new apartment, but this other apartment, he told me that he was going to place me in charge of the drug operations in the North Texas area, including Dallas, Ft. Worth, and Denton. And he further advised me that he had several labs that he was setting up, both in the United States and in Mexico, and he said that he wanted me to, to mainly be an upper eschelon member of the organization and not do the trafficking myself personally, but to let [712] other people do it for me. He showed me a light green colored loose-leaf notebook while I was at the apartment, several pages in there, about three or four or five pages showed the set-up of the organization. He also had numerous, numerous orders in the notebook, ranging from what, the kilo shipments of marijuana to various people throughout the United States.

Q. Did you have any subsequent conversations, meetings with Reagan on that day, on the 16th?

A. Yes, as a matter of fact, as a matter of fact, I did.

Q. And was that later or before this particular meeting?

A. That was, that was before this meeting.

Q. And what happened before this particular meeting that you just related?

A. Before this meeting, Agent Sulac and I, we went to 408 West 37th Street, and, and—correction, just prior to this, I had gone to the, to the other apartment where Reagan Logue was, and for the purpose of buying, making another purchase of marijuana, and he said that the shipment had come in and it was over at 408 West 37th Street address. And we subsequently went over [713] there and bought a pound of marijuana.

Q. Well, did Reagan tell you who to see over there and where to go?

A. Yes, he told us where to go and told us to see Joe Ennis, or Richard Neal, or a guy named, an individual identified as Zitz. He said they would be over at the other apartment and they would take care of us.

Q. Did you go to that other place?

A. Sure did.

Q. Did you make a buy there?

A. Yes, sir, we bought approximately a pound of marijuana, manicured marijuana.

Q. How much did you pay for that?

A. Seventy-five Dollars.

Q. What was the quality of that marijuana?

A. It was finely manicured marijuana.

Q. When you were at this place where you made

this buy, was there anything else that occurred there?

A. Well, they showed us the—

Mr. De Anda: —Just a moment, Your Honor, I didn't object to the purchase because I think it was related to what Reagan Logue told this man, and on that basis, I [714] think it is probably admissible, but anything else that happened, that would not be relevant to any issue in the case, as I see it, in regards to Reagan Logue.

The Court: Well, whatever may have been related to Mr. Reagan Logue is, is pertinent, but, but—

Mr. De Anda: —Yes, sir.

The Court: —not the other individuals.

Mr. Pain: I think I can connect it up, Your Honor.

The Court: All right.

By Mr. Pain:

Q. At this address that you made this last, latest buy, did Reagan Logue live there a short time earlier?

A. He certainly did.

Q. How many days prior to the time that you made this particular buy did Reagan Logue live there, if you know?

A. Approximately three days prior to that, because he moved to the new apartment somewhere around the 13th or, and this was on the 16th—

Q. —All right—

[715] A. —of March.

Q. Did you, what, if anything, did you observe at this apartment during the time you made this buy, anything unusual?

A. Well—

Q. —If anything.

Mr. De Anda: Your Honor, again I am going to object to anything, anything else unless he can testify that it was in the same way when Logue had it, if it is relevant to the case, relevant to Logue, and anything that they found in the apartment other than the buy, as I understood his testimony, Logue advised him to go over there and buy this marijuana, which he did, a pound of it, I believe he said, isn't that right, sir?

The Witness: Yes, sir.

Mr. De Anda: And anything else that might have been in the apartment, I don't care if Logue just lived there yesterday, or a month before, it would not be relevant unless it is something that Logue, that this witness knows of his own knowledge that existed there while Logue lived there.

[716] Mr. Pain: I think that whatever he observed there would be relevant because of the short space in time from which Reagan Logue moved from there and could, by inference, certainly be traced to Reagan Logue.

Mr. De Anda: Well, that's absolutely one hun-

dred percent wrong, Judge, if somebody else is already living in the apartment, I don't care if he moved out thirty minutes before.

The Court: Unless Reagan Logue was there, you can show that he was, had something to do with what went on, but I will sustain your objection.

Mr. De Anda: Thank you.

By Mr. Pain:

Q. Did you have any subsequent contact with Reagan Logue after the two encounters on the 16th of March of '68?

A. Yes, sir.

Q. And when was that?

A. March the 19th, 1968.

Q. What, where did you go and what happened, explain that.

[717] A: I went to 617 West 24½ Street, to his apartment, his new apartment, and Agent Sulac and I went to the apartment. And Reagan Logue greeted, greeted us at the door with a, with a loaded twenty-two caliber pistol.

Q. Did he say anything?

A. He told us to come on inside.

Q. And did you?

A. Yes, sir.

Q. Was he making, what was he doing with the pistol?

A. Well, he was just playing around with the pistol. We went to the living room area, and he told Agent Sulac and I that he had some reliable infor-

mation, that is, I mean his national organization that he was setting up, had been penetrated by some Feds, and he said that one of the Feds' name was Sam Roberts, and the other one was Robert Hines.

Q. What name were you going by at the time?

A. Sam Pearce.

Q. Did, how long were you with Reagan Logue at that particular encounter?

A. Oh, around fifteen minutes, fifteen or twenty minutes.

[718] Q. And what, if anything, did he do with the gun during that time?

A. I asked Reagan to let me take a look at the gun and I unloaded the gun and gave it back to him.

Q. Did you have any subsequent encounters with him?

A. Yes, sir.

Q. And when was that?

A. On March the 22nd, 1968.

Q. And would you explain that, please, sir?

A. Yes, sir. Agent Sulac and I saw Reagan Logue at 617 West 24½ Street in the early part of the evening. Present were Reagan Logue, and Paul Gill, and Jack Futch, (spelling) F-U-T-C-H, Medders, (spelling) M-E-D-D-E-R-S, I guess, and Joe Ennis, and I think a couple of others were present during this, during this visit.

Q. Now did you have any conversation with Reagan Logue?

A. Yes, sir. Reagan Logue said that they were going to Mexico to pick up a load, and asked me whether I would contribute to it, to the bank, Two Hundred Dollars, and drive them to Mexico, and I would

receive five kilos from the, from [719] the subsequent shipment of marijuana which they said would be around Two Hundred kilos.

Q. Did you so agree?

A. I so agreed.

Q. And then what happened as a result of this encounter?

A. I handed him, handed him Two Hundred Dollars and he included that with a large roll of money. And I told him that I would be back in, in about an hour and would be prepared to drive to, to Mexico, to deliver the money. He told me that I would in no way come in contact with the marijuana, that my purpose would be to deliver the money to the supplier and the, and the marijuana would, would come into the Austin area a day or so later.

Q. Did you make the trip to Mexico and deliver the money?

A. I made the trip to Mexico with, with some of the other people and delivered the money to the supplier in Mexico.

Q. And then after you were there in Mexico, where did you go?

A. Returned to Austin, Texas.

Q. Did you later learn that this load came into the [720] country?

A. Yes, sir.

Mr. De Anda: Your Honor, I object to that, if he learned about it. If it is something of his own personal knowledge, fine, but if not, it would be based on hearsay and conclusion.

The Court: I sustain the objection.

By Mr. Pain:

Q. Did you have any knowledge of your own that this load came into the country, did you see it?

A. I didn't personally see it. I had a conversation with Reagan.

Mr. De Anda: Your Honor, I object to that if he didn't personally see it. It is a conclusion and I would object to it, Judge.

The Court: If Logue told him, I think that that would be—

Mr. De Anda: —Yes, sir, I think so. He can testify to what Reagan told him.

The Court: That's right.

By Mr. Pain:

Q. Did you subsequently have a conversation with Reagan in connection with this load?

A. Yes.

[721] Q. What did he tell you?

A. Reagan Logue said that his load had been busted near Freer, Texas, that Joe Ennis had been arrested, and that the Feds had gotten over two hundred kilos of marijuana.

Q. A hundred kilos is how many, how many pounds is that?

A. That's about two hundred and twenty pounds.

Q. Now you had occasion in encountering Reagan Logue several times during this approximate two months' period in early 1968, did you also come into



contact with other people involved in this particular operation?

A. Yes, sir, numerous.

Q. How many people were involved in it?

Mr. De Anda: Your Honor, I don't want to waive anything, and I don't see the relevancy of the other people or how many people were involved, other than what might, he might testify as to those people that were present with Reagan Logue and he has already testified about, I think he said something like ten or something, if I remember correctly, and I don't see—

The Court: —I will let him answer this [722] question, but nothing further than that.

By The Witness:

A. It was approximately, approximately ten to fifteen people involved in the, in the operation. Reagan Logue personally introduced me to several of these people, and including the one who Reagan told me was in charge of the Washington, D.C. area, another one that was in charge of the New Orleans area, and another one that was in charge in Miami. He introduced me to several of them during this investigation.

Q. During your various encounters with Reagan Logue, and these other individuals, did you have a chance to observe their relationship, observe how they acted towards one another, and, and what the relationship with one another was?

A. Yes, sir.

Q. Did you observe whether or not Reagan Logue appeared to be a leader of all of these other individuals?

A. Yes, sir.

Q. And did he appear to you to be such a leader?

A. Yes, sir.

Q. Now concerning the two hundred and twenty-nine or, excuse me, the approximately two hundred [723] and twenty pounds of marijuana that was busted there at Freer, do you have an opinion as to its value?

A. Yes, sir, I have an opinion as to its value.

Q. Perhaps before I ask that opinion, let me ask you if you have, in your work as a Narcotics Agent, how long have you been a Narcotics Agent?

A. Well—

Q. —Would that be an accurate word to describe your work, as a Narcotics Agent?

A. Yes, my primary duties and responsibilities are, for the last, about nine years, I have been in the undercover field; mostly what I have done is undercover work.

Q. And during your work, have you had the occasion to work with marijuana and see it and deal in it?

A. See it and what, sir?

Q. Deal with it and in it?

A. Yes, sir.

Q. And you have done so on several occasions?

A. Many occasions.

Q. And have you come to recognize marijuana if and when you see it?

A. Yes, sir, unless it is finely manicured, then it's

difficult, but if it is not finely [724] manicured, I could very easily identify it.

Q. Then in your work as an undercover agent, you have made quite a few buys of narcotics, including marijuana, have you not?

A. Yes, sir.

Q. Now in connection with the two hundred and twenty pounds that was busted near Freer, would you give an opinion as to its value, the retail value?

A. Yes, sir, considering the retail value, which would be, the straight price per marijuana cigarette, which was going for about a Dollar, for about a Dollar a cigarette, most of this is, the average size cigarette, it usually weighs about five grains or somewhere thereabouts, and if I am getting my computations straight here, just a moment— (Witness figuring on instrument)

Mr. De Anda: Your Honor, I think we are dealing here, for whatever it is worth, in bulk marijuana. And as I understand it, these Narcotics Officers love to give these figures, give the figures in money values somewhere along the way, it is impressive in the newspaper, but I was [725] wondering whatever the value of the bulk marijuana is, that's what we are talking about, and apparently that's what his transactions were with this young man that this gentleman has talked about. I don't think that the market price or retail price of cigarettes is particularly relevant or even enlightening in the case at all, and I really don't see the relevancy in it anyway. I don't think that's what we are dealing in here to start with, and it's just preju-

dicial, Judge, and they are trying to make a marijuana case out of the trial.

The Court: It is not of any interest to me. In other words, the dealing in it is the primary thing that is of interest to the Court. I don't, I don't, it really doesn't make any, there is no relevancy, as far as I can see, as to how much it is worth. We know that.

Mr. Pain: All right, but for the record can he go ahead and get, go ahead and give his opinion?

The Court: He can put it in the record [726] on a Bill.

Mr. De Anda: All right.

The Court: And you can ask him whatever questions you want to in regard to this particular question.

Mr. De Anda: I will ask him, well, Judge, I'm not waiving my objection, and I think it might save time, I am going to ask relatively few questions, I think.

The Court: Go ahead and make your Bill right now.

Mr. Pain: What is your opinion as to that value?

The Witness: A conservative, a very conservative estimate, I would say, would be a Hundred Thousand Dollars.

Mr. Pain: Pass the witness, Your Honor.

[727] CROSS EXAMINATION

By Mr. De Anda:

Q. Just a couple of questions. First, I guess it would be in connection with that Bill—now as I understand it, you threw Two Hundred Dollars in the kitty for the purchase of this marijuana, is that the marijuana that you contributed to?

A. This is the portion that I contributed to, to that load down there.

Q. All right, in addition to that, you threw in a trip up there?

A. Yes, sir, I drove down to Mexico.

Q. Now for your Two Hundred Dollars you would get how much marijuana?

A. I was going to get five kilos.

Q. That would be one-twentieth of the total load, if it was a hundred kilos?

A. That's correct.

Q. So then that would be the total cost, assuming you were not gypped or swindled or paid more than anybody else, about Four Thousand Dollars, for the cost of that one hundred kilos?

A. Yes, sir.

Q. Or would it be less than that?

[728] A. Well, Reagan Logue told me what he was paying the supplier down there for it.

Q. What did he tell you he was paying for it?

A. He said he was paying Thirty-two Dollars a kilo, and selling it for a minimum of a Hundred and Fifty, a minimum of a Hundred and Fifty Dollars a kilo.

Q. All right, now on the, you say that you dealt with Reagan several times and bought either marijuana or some other drug from him. Incidentally, you mentioned dangerous drugs and marijuana, isn't marijuana a dangerous drug, also, or do you consider it a dangerous drug?

A. Well—

Q. —Or is it simply an illegal drug?

A. I consider it to be a dangerous drug. The active drug ingredient, which is cannabis sativa, is certainly very dangerous.

Q. All right, I guess the reason I asked the question is you said dangerous drugs and marijuana, and I didn't know there was any distinction in your department.

A. Well, there is a certain distinction, and also there is a distinction, you know, in the state laws, also, which I am sure you are aware of.

[729] Q. No. What was the total amount of money that you gave Reagan Logue in, in your dealings with him, do you recall?

A. I'd have to add them up, sir.

Q. Well, give me an estimate of the amount.

A. Well, a Hundred and Forty-five and Seventy, and—

Q. —Two Hundred, say—

A. —Three Hundred Dollars—

Q. —That's Five Hundred and Fifteen?

A. And the Two Hundred on the part, the part on that load.

Q. That's Seven Hundred and Fifteen, Seven Hundred and Fifteen Dollars?

A. Uh-huh.

Q. In this two months' period?

A. Uh-huh, yes.

Mr. De Anda: Thank you, Mr. Roberts.

Mr. Pain: I have no further questions.

The Court: You may step down.

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WITNESS EXCUSED

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[730] The Court: We will take a fifteen minute recess at this time.

(And after a short recess, Court reconvened in the above entitled and numbered cause, all parties present and presiding as before, and the following proceedings were had, to-wit:)

The Court: You may be seated.

SAM J. ROBERTS,

having been previously sworn, was recalled to the witness stand and testified as follows, to wit:

FURTHER CROSS EXAMINATION

By Mr. De Anda:

Q. Mr. Roberts, for the record, you are the same Sam Roberts that was testifying before we recessed?

A. Yes, sir.

Q. And I asked you, after we recessed, and forgive [731] me for getting into this, but these people that you were dealing with and the people that were, that you saw there with Reagan Logue, for the most part, were they either college students or college age students there in the Austin area?

A. Yes, sir.

Q. And not all of them were in college, I believe?

A. Not all of them were in college.

Q. But they were all young people that lived there in Austin?

A. Well, they, they just all, they didn't all live there in Austin, but they were, well, around, between seventeen or eighteen, to twenty-four years old, in that age bracket.

Q. I see, that's all I had to ask. Thank you.

The Court: Are you all through?

Mr. Pain: I have no more questions.

Mr. De Anda: As far as I'm concerned, this witness may be excused. I understand he wants to get back where it is cold.

(Discussion held off of the record.)

The Court: Thank you.

[732]

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WITNESS EXCUSED

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The Court: All right, gentlemen, based on our conversation in Chambers, we will recess until 9:00 o'clock in the morning at which time Plaintiff can put on such additional testimony with regard to the records at the County Jail, as you may desire.

Mr. De Anda: I may have one other witness, a rebuttal witness.

The Court: All right, you have rested?

Mr. Pain: Yes, sir, Your Honor, that concludes the Government's case.

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DEFENDANT RESTS

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The Court: Then at the conclusion of the testimony, we will argue the case.

Mr. Pain: All right.

Mr. De Anda: Fine.

The Court: Thank you.

[733] (And thereafter on January the 29th, 1971, at 9:00 o'clock A.M., Court reconvened in the above entitled and numbered cause, all parties present and presiding as before, and the following proceedings were had, to-wit:)

The Court: Please be seated.

Mr. De Anda, do you have some additional—

Mr. De Anda: Your Honor, I would like to make a statement to the Court in connection with the matters that we took up yesterday afternoon, pertaining to the Nueces County Jail records.

The Court: All right.

Mr. De Anda: Mr. Phil Maxwell, my associate, went over there yesterday and did examine the time, the punch cards that the jailers use when they make the rounds upstairs in the evening. And it developed that many of the cards have no dates, some of the cards do have dates, and it just so [734] happens that he was unable to find any dated cards for the period of time which is material here, that is May the 24th and 25th. So for that reason, there is no point, it would not be probative of any matter before us. Also the records on whether or not Mr. Reyna, or Mr. Barber, or Mr. Lowrance worked the day preceding the death—

The Court: —That's the 24th?

Mr. De Anda: Which was May the 24th, are unavailable because they keep no records of that either. They have some shift records, they didn't have those, but even the shift records apparently are not reliable because it is very often that the personnel in the jail trade off for each other, and there is no records at all kept of that. Consequently, I don't know of any-

thing that those records would add to the case. They are available for what they are worth, but we could see no point in bringing them down. And if the Government wants to bring them down, they are welcome to do so, but I really don't [735] think it would be helpful.

The Court: Do you have anything else to bring up?

Mr. Pain: No, sir.

Mr. De Anda: Does the Government accept that statement as such? We can put formal proof on by putting on Mr. Maxwell, but I don't believe it is necessary, but if the Court feels we ought to have formal proof on it—

Mr. Pain: —That sounds like a fair statement.

The Court: We won't go into the formal proof and will accept the statement of Counsel.

Mr. De Anda: We have nothing further to offer, Your Honor.

Mr. Pain: Your Honor, at the close of my case yesterday, I failed to offer into evidence the certified Court documents which I had asked Counsel about last week, I think it was, and he said he had no objections to their authenticity. At this time I would like to offer these into evidence as Government's Exhibits 3, 4, [736] 5. These represent the indictment out of Laredo, Texas, the sealed indictment out of Austin, Texas, and the docket sheet out of Austin,

Texas, which reflects the plea of guilty of Reagan Logue on the Austin indictment.

Mr. De Anda: Your Honor, I have—anything with reference to the Austin matter, I have no objections to it, because it is already in evidence anyway. And I think it would be harmless. Insofar as the Laredo indictment is concerned, I don't know if I would object to it for the reason, well, let me read it first, Judge.

The Court: All right.

Mr. De Anda: I have read it, but—(looking at instrument)

Mr. Bowers: Your Honor, while Counsel is reading that, may I be excused from the Courtroom for a few minutes? There was some material I thought I had with me, but I don't seem to have it now.

The Court: Surely.

Mr. De Anda: Well, there's been so much comment about this Laredo matter, Judge, [737] and also the Order that was entered on the sanity question, that I don't know of any, if it is of any benefit to the Court to have it in the record, but I am not going to object to it.

The Court: All right. I will admit the Exhibits.

Mr. Pain: That would be Exhibits 3, 4, and 5.

The Court: All right.

The Clerk: 3 is the Austin indictment, 4 is the docket sheet from Austin, and 5 is the Laredo indictment.

The Court: Now is that it? Does that conclude all the testimony, is there anything further?

Mr. Pain: That's it.

The Court: As far as the Government is concerned?

Mr. Pain: That concludes the Government's case.

Mr. De Anda: Your Honor, I have nothing further.

The Court: All right, as soon as Mr. Bowers returns, we will start the arguments.

[738] Mr. De Anda: Pardon me—

The Court: —I say, as soon as Mr. Bowers returns, we will start the arguments.

Mr. Pain: Your Honor, do you have any objections if Mr. Bowers and I split up our argument?

The Court: I have no objection. How much time do you-all want?

Mr. De Anda: Judge, I don't really expect that I will, in view of the briefing that we have done, I think that this resolves some of the problems I anticipated that we might have to argue, and I will make reference to, to some of these cases, and these, this is your copy, Judge, on the cases, and I have given a

list to Counsel in addition to those that we gave out, gave you the other day.

The Court: Yes, sir.

Mr. De Anda: That we believe have some bearing in this lawsuit on the various aspects of it. Frankly, I thought at first that the law might be more confused than it is. I don't really think the law is as confused as I was about it, so—

[739] The Court: —Just unconfuse the Court, if you will. Will you need thirty minutes, forty-five minutes, an hour, or what?

Mr. De Anda: Judge, if you will just not give me a time limit, and if you think I am not being helpful, let me know and I will sit down as graciously and quickly as I know how.

The Court: We will just do it that way.

Mr. Pain: All right, I don't anticipate—I'm going to argue primarily the fact issues and Mr. Bowers is going to argue some of the law issues as we see it, and I don't anticipate that my argument, that it will take more than ten or fifteen minutes. I don't know what Mr. Bowers anticipates, do you have any idea?

Mr. Bowers: I don't think it will be more than that, sir.

The Court: Mr. De Anda, as you argue, you will be arguing several different points as you go along,

and if, with regard to a particular point, I feel satisfied, I will let you know and then you can move on.

[740] Mr. De Anda: At the same time, if you feel dissatisfied, if you will ask me or let me know—

The Court: —I will ask the question.

Mr. De Anda: I would appreciate the interruption, if you will tell me.

The Court: All right, you may proceed, Mr. De Anda.

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[741]

## PLAINTIFF'S ORIGINAL COMPLAINT

(Caption Omitted)

(Filed July 1, 1969)

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Orval C. Logue, individually and as personal representative of his deceased son, Reagan Edward Logue, for the use and benefit of all those entitled to recover under the Texas Wrongful Death Act for the death of Reagan Edward Logue, and on behalf of the Estate of Reagan Edward Logue, Deceased, Plaintiff, complaining of The United States of America, Defendant, and for cause of action would show the Court as follows:

1. Plaintiff is a resident of Corpus Christi, Nueces County, Texas.

2. Plaintiff, on or about June 28, 1968, properly filed the required administrative claim in connection herewith, and although more than six (6) months has elapsed since the filing of said claim, the United States has failed to either accept or reject said claim.

[742] 3. Reagan Edward Logue is dead; at 18 years of age, he died by his own hand on or about May 25, 1968, while in the custody of Defendant.

4. Orval C. Logue, age 54, is the adoptive father of Reagan Edward Logue and brings this suit individually and in his capacity as personal representative of his deceased son, Reagan Edward Logue, for



the use and benefit of all persons entitled to recover for the death of Reagan Edward Logue under the Texas Wrongful Death Act, Article 4671, *et seq.*, Revised Civil Statutes of Texas (1925), as amended, and on behalf of the Estate of Reagan Edward Logue.

5. In addition to Plaintiff, Reagan Edward Logue, Deceased, is survived by his mother, Alice Marie Logue, age 35, and by a half brother, Orval Dean Logue, said Orval C. Logue and Alice Marie Logue being all of the persons entitled to recover under said Texas Wrongful Death Act for the death of Reagan Edward Logue and said Orval Dean Logue, Orval C. Logue and Alice Marie Logue being all of the heirs at law of the said Reagan Edward Logue, who died intestate.

6. By virtue of the fact that this suit is brought under the provisions of the Federal Tort Claims Act, 28 USCA §2671, *et seq.*, this Court has jurisdiction of the within action under the provisions of 28 U.S.C.A., Section 1346(b).

7. Plaintiff would show that on or about May 22, 1968, his deceased son, Reagan Edward Logue, was taken into Federal custody and incarcerated in the Nueces County Jail by Defendant, acting by and through his agents, servants [743] and/or employees, where he remained until on or about May 23, 1968.

8. On or about May 23, 1968, the said Reagan Edward Logue, following a tendency known to Defend-

ant or which, in the exercise of reasonable care Defendant should have known, attempted to commit suicide, and was taken by one or more members of the Nueces County, Texas, Sheriff's Department to Memorial Medical Center, Corpus Christi, Texas, for treatment of his self-inflicted wounds.

9. Upon arrival at the Memorial Medical Center, Corpus Christi, Texas, on or about May 23, 1968, the said Reagan Edward Logue was admitted to intensive care in the psychiatric ward of said hospital and under the care of a trained psychiatrist, where he remained until on or about May 24, 1968, when he was removed or caused to be removed from the care of his doctor and the hospital to a cell in Nueces County Jail by Defendant acting by and through its duly authorized agents, servants and employees.

10. At the time Reagan Edward Logue was removed from the care of his doctor and from the hospital as aforesaid, Defendant by and through its duly authorized agents, servants and/or employees, was fully apprised of the fact, or in the exercise of reasonable care should have been fully apprised of the fact, that the youth had been demonstrating suicidal tendencies, that the doctors attending the said Reagan Edward Logue were concerned for his safety and were advising and pleading against removing said Reagan Edward Logue from the hospital and that to remove the said Reagan Edward Logue from the care of his doctors and from the [744] hospital to the Nueces County Jail, would, in all reasonable probability, endanger the youngster in body and life.

11. Notwithstanding such circumstances and knowledge, with utter disregard for the safety and well-being of the said Reagan Edward Logue, without justifiable cause and in disregard of the duties imposed upon it by law, and in the face of the pleadings of the boy's mother and doctor, the said Defendant, acting by and through its duly authorized agents, servants and employees, removed and/or caused to be removed, as aforesaid, the said Reagan Edward Logue from the care of his doctors and the hospital to the Nueces County Jail, as aforesaid.

12. On or about May 25, 1968, having been so removed from the hospital to the Nueces County Jail against all medical recommendations, as aforesaid, Reagan Edward Logue did in fact succeed in taking his life, as it had been predicted he would, using as his hangman's noose the very bandages which had swathed the wounds remaining from his earlier attempt at suicide.

13. Accordingly, the death of Reagan Edward Logue was proximately caused by acts of omission and commission on the part of the said Defendant, acting by and through its duly authorized agents, servants and employees, which, collectively and severally, constituted negligence.

14. At all times pertinent to this lawsuit, all of the agents, servants and/or employees of the said Defendant were acting within the scope of their authority and employment.

15. Plaintiff would show that as a direct and proximate result of the negligence of the Defendant, as aforesaid, [745] damages in the amount of at least

One Hundred Thousand Dollars (\$100,000.00) have resulted, for which Plaintiff seeks recovery herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited and required to answer herein according to law and that upon final hearing of this cause he have judgment against said Defendant for the full amount of the damages aforesaid, together with costs of court and general relief.

Respectfully submitted,

ORVAL C. LOGUE, individually  
and as personal representative  
of his deceased son, Reagan Ed-  
ward Logue, for the use and  
benefit of all those entitled to  
recover under the Texas Wrong-  
ful Death Act for the death of  
Reagan Edward Logue, and on  
behalf of the estate of Reagan  
Edward Logue, deceased, Plain-  
tiff

By: Law Offices of:

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and

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714 Buffalo

Corpus Christi, Texas

Attorneys for Plaintiff

By WILLIAM R. EDWARDS

William R. Edwards

[746]

## ANSWER

(Caption Omitted)

(Filed September 29, 1969)

As its answer to Plaintiff's original complaint Defendant, the United States of America, says:

*First Defense*

*Plaintiff's complaint fails to state a claim on which relief can be granted.*

*Second Defense*

Responding specifically to the averments in Plaintiff's Complaint Defendant admits, denies and alleges as follows:

1. It admits the averments in paragraph 1.
2. It admits the averments in paragraph 2.
3. It admits the averments in paragraph 3 except that it states that while at the time of his death Reagan Edward Logue was a federal prisoner, he was confined in the Nueces County Jail in the immediate custody of the subordinates of the Sheriff of Nueces County then in charge of that jail.
4. It states that it is without knowledge of the relationship between plaintiff and the deceased, but upon the information available to it it believes that the allegation that plaintiff is the adoptive father of the deceased is true. All other allegations in paragraph 4 are not averments of fact which it is required to admit or to deny.

- [747] 5. It states that it is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 5.
6. It admits that the Court has jurisdiction of actions brought under the Tort Claims Act, but denies that plaintiff has stated a claim on which relief can be given under the Tort Claims Act.
7. It admits the averments in paragraph 7.
8. It denies the averments in paragraph 8, except that it admits that on May 23, 1968 Reagan Edward Logue cut himself and was taken from the Nueces County Jail to a hospital.
9. It denies the averments in paragraph 9 except that it admits that Reagan Edward Logue was treated for self-inflicted injuries at the hospital and remained in the hospital until May 24, 1968, on which date he was returned to the Nueces County Jail by a Deputy U. S. Marshal.
10. It denies the averments in paragraph 10.
11. It denies the averments in paragraph 11 except that it admits that a Deputy U. S. Marshal took Reagan Edward Logue from the hospital to the Nueces County Jail.
12. It denies the averments in paragraph 12 except that it admits that on May 25, 1968, Reagan Edward Logue hung himself in the Nueces County Jail using bandages.
13. It denies the averments in paragraph 13.
14. It denies the averments in paragraph 14 except that it admits that the Deputy U.S. Marshal who

took Reagan Edward Logue from the hospital to the Nueces County Jail was acting within the scope of his duties as a Deputy United States Marshal in so doing.

[748] 15. It denies the averments in paragraph 15.

Plaintiff, as father or adoptive father, and plaintiff's wife, as the parents of Reagan Edward Logue, through the type of home they furnished for Reagan Edward Logue, the atmosphere in that home, the examples they gave to him from their own actions and their failure to give him proper guidance and training caused Reagan Edward Logue to resort to the use of drugs, including marihuana and LSD, and to sniff glue, and that the use of such drugs and the acts and omissions of plaintiff and his wife, caused Reagan Edward Logue to become unstable mentally, and that this mental instability caused, or in the alternative contributed to, Reagan Edward Logue's killing of himself, and that therefore neither plaintiff nor his wife are entitled to recover any damages which may have resulted from the death of Reagan Edward Logue.

ANTHONY J. P. FARRIS  
United States Attorney

By: GEORGE R. PAIN  
George R. Pain  
Assistant United States Attorney

CERTIFICATE OF SERVICE (Omitted)

## [749] FIRST AMENDED ANSWER

(Caption Omitted)

(Filed October 27, 1969)

As its answer to Plaintiff's original complaint Defendant, the United States of America, says:

## First Defense

Plaintiff's complaint fails to state claim on which relief can be granted.

## Second Defense

Responding specifically to the averments in Plaintiff's complaint Defendant admits, denies and alleges as follows:

1. It admits the averments in paragraph 1.
2. It admits the averments in paragraph 2.
3. It admits the averments in paragraph 3 except that it states that while at the time of his death Reagan Edward Logue was a federal prisoner, he was confined in the Nueces County Jail in the immediate custody of the subordinates of the Sheriff of Nueces County then in charge of that jail.
4. It states that it is without knowledge of the relationship between plaintiff and the deceased, but upon the information available to it it believes that the allegation that plaintiff is the adoptive father of the deceased is true. All other allegations in paragraph 4 are not averments of fact which it is required to admit or to deny.



- [750] 5. It states that it is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 5.
6. It admits that the Court has jurisdiction of actions brought under the Tort Claims Act, but denies that plaintiff has stated a claim on which relief can be given under the Tort Claims Act.
7. It admits the averments in paragraph 7.
8. It denies the averments in paragraph 8, except that it admits that on May 23, 1968 Reagan Edward Logue cut himself and was taken from the Nueces County Jail to a hospital.
9. It denies the averments in paragraph 9 except that it admits that Reagan Edward Logue was treated for self-inflicted injuries at the hospital and remained in the hospital until May 24, 1968, on which date he was returned to the Nueces County Jail by a Deputy U. S. Marshal.
10. It denies the averments in paragraph 10.
11. It denies the averments in paragraph 11 except that it admits that a Deputy U. S. Marshal took Reagan Edward Logue from the hospital to the Nueces County Jail.
12. It denies the averments in paragraph 12 except that it admits that on May 25, 1968, Reagan Edward Logue hung himself in the Nueces County Jail using bandages.
13. It denies the averments in paragraph 13.

14. It denies the averment in paragraph 14 [751] except that it admits that the Deputy U. S. Marshal who took Reagan Edward Logue from the hospital to the Nueces County Jail was acting within the scope of his duties as a Deputy United States Marshal in so doing.
15. It denies the averments in paragraph 15 .

Plaintiff, as father or adoptive father, and Plaintiff's wife, as the parents of Reagan Edward Logue, by their acts and omissions, contributed to Reagan Edward Logue's killing himself, and that therefore neither Plaintiff nor his wife are entitled to recover any damages which may have resulted from the death of Reagan Edward Logue.

ANTHONY J. P. FARRIS  
United States Attorney

By: GEORGE R. PAIN  
George R. Pain  
Assistant United States Attorney

CERTIFICATE OF SERVICE (Omitted)

**[752] SECOND AMENDED ANSWER****(Caption Omitted)****(Filed January 25, 1971)**

As its answer to Plaintiff's original complaint Defendant, the United States of America, says:

**First Defense**

Plaintiff's complaint fails to state claim on which relief can be granted.

**SECOND DEFENSE**

Responding specifically to the averments in Plaintiff's complaint Defendant admits, denies and alleges as follows:

1. It admits the averments in paragraph 1.
2. It admits the averments in paragraph 2.
3. It admits the averments in paragraph 3 except that it states that while at the time of his death Reagan Edward Logue was a federal prisoner, he was confined in the Nueces County Jail in the immediate custody of the subordinates of the Sheriff of Nueces County then in charge of that jail.
4. It states that it is without knowledge of the relationship between Plaintiff and the deceased, but upon the information available to it, it believes that the allegation that Plaintiff is the adoptive father of the deceased is true. All other allegations in paragraph 4 are not aver-

ments of fact which it is required to admit or to deny.

- [753] 5. It states that it is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 5.
6. It admits that the Court has jurisdiction of actions brought under the Tort Claims Act, but denies that Plaintiff has stated a claim on which relief can be given under the Tort Claims Act.
7. It admits the averments in paragraph 7.
8. It denies the averments in paragraph 8, except that it admits that on May 23, 1968, Reagan Edward Logue cut himself and was taken from the Nueces County Jail to a hospital.
9. It denies the averments in paragraph 9, except that it admits that Reagan Edward Logue was treated for self-inflicted injuries at the hospital and remained in the hospital until May 24, 1968, on which date he was returned to the Nueces County Jail by a Deputy United States Marshal.
10. It denies the averments in paragraph 10.
11. It denies the averments in paragraph 11, except that it admits that a Deputy United States Marshal took Reagan Edward Logue from the hospital to the Nueces County Jail.
12. It denies the averments in paragraph 12, except that it admits that on May 25, 1968, Reagan Edward Logue hanged himself in the Nueces County Jail using bandages.

13. It denies the averments in paragraph 13.

[754] 14. It denies the averments in paragraph 14, except that it admits that the Deputy United States Marshal who took Reagan Edward Logue from the hospital to the Nueces County Jail was acting within the scope of his duties as a Deputy United States Marshal in so doing.

15. It denies the averments in paragraph 15.

#### AFFIRMATIVE DEFENSE

Defendant alleges that if negligence be found on the part of any agent or employee of the Defendant for his actions while acting within the scope of his employment, and that if such negligent actions were the proximate cause of the death of Reagan Edward Logue, then such acts of negligence (if any there be) were acts done pursuant to the discretionary function exceptions of 28 USC §2680.

ANTHONY J. P. FARRIS  
United States Attorney

By: GEORGE R. PAIN  
George R. Pain  
Assistant United States Attorney

CERTIFICATE OF SERVICE (Omitted)

[755] PLAINTIFFS' PROPOSED FINDINGS  
OF FACT AND CONCLUSIONS OF LAW

(Caption Omitted)

(Filed January 25, 1971)

To The Honorable Judge Of Said Court:

COMES NOW the Plaintiffs in the above styled and numbered cause and submits to the court proposed findings and conclusions as follows:

1. That this court has full and complete jurisdiction of the subject matter and of the parties, and that venue properly lies in this court. (Stipulation, page 2).
2. That Reagan Edward Logue died by his own hand on or about May 25, 1968, at the age of 18 years. (Stipulation, Admission of Fact No. 1, page 11).
3. That Reagan Edward Logue died by hanging in the Nueces County Jail, using bandages which had been applied in the treatment of self-inflicted cutting wound to his arm. (Stipulation, Admission of Fact No. 5, page 11).
4. That Plaintiff Orval C. Logue is the adoptive father of Reagan Edward Logue and that Plaintiff Alice Marie Logue is the natural mother of the said Reagan Edward Logue, deceased.
5. That Orval C. Logue and Alice Marie Logue are all of the persons entitled to recover under the Texas Wrongful Death Act because of the death of Reagan Edward Logue.

6. That on or about June 28, 1968, the required administrative claim asserting the cause of action herein brought was properly filed and that this suit was filed more than six months following the filing of such claim, and that the United States has failed to either accept or reject said claim.

[756] 7. That on or about May 22, 1968, Reagan Edward Logue was taken into federal custody and incarcerated in the Nueces County Jail by Defendant, acting by and through its agents and employees, who were acting within the scope of their employment for Defendant; the said incarceration was pursuant to a bench warrant issued out of the Laredo Division of this court. (Stipulation, Admission of Fact No. 3, page 11).

8. That on May 23, 1968, while in the County Jail, Reagan Edward Logue cut himself and was taken from the Nueces County Jail to the Medical Center, a hospital in Corpus Christi, Texas; that such cutting was a self-inflicted injury for which he was treated at the hospital and that the said Reagan Edward Logue remained in the hospital until May 24, 1968, on which date he was returned to the Nueces County Jail by a Deputy U. S. Marshal. (Stipulation, Admission of Fact No. 4, page 11).

9. That at all times material hereto, the Deputy U. S. Marshals and other government employees and/or agents, anyone involved in the arrest and detention of Reagan Edward Logue were acting within the scope of their employment and/or agency for the United States Government.

10. That at all times material hereto the members of the Sheriff's Department of Nueces County, Texas, connected with and charged with duties pertaining to the incarceration and detention of Reagan Edward Logue were acting within the scope of their employment and/or agency for Nueces County, Texas.

11. That all persons, whether employees of the Sheriff's Department of Nueces County or of the United States Marshal, connected in anyway with the arrest, incarceration, detention and safe keeping of Reagan Edward Logue from May 22, 1968, until the time of his death, were employees and/or agents of the United States acting within the scope of their employment and/or agency.

12. That prior to the time Reagan Edward Logue was returned to the Nueces County Jail from the hospital on or about May 24, 1968, by Deputy U. S. Marshals, that said Marshals and [757] their supervisors knew that the said Reagan Edward Logue was mentally disturbed; that he had serious suicidal tendencies; that only the day before he had a serious attempt to take his own life.

13. That both doctors who treated and attending Reagan Edward Logue for the self-inflicted injuries of May 23, 1968, and the hospitalization subsequent thereto, recommended to the Deputy U. S. Marshals that Reagan Edward Logue remain in the hospital until transferred to another medical facility.

14. That even prior to this hospitalization for the self-inflicted injuries of May 23, 1968, that the Deputy



U.S. Marshals and government agents arresting Reagan Edward Logue and incarcerating him in the Nueces County Jail knew that the said Logue was mentally unbalanced.

15. That removing Reagan Edward Logue from Memorial Hospital and returning him the Nueces County Jail on May 24, 1968, was negligence on the part of the U. S. Marshal and a proximate cause of the death of Reagan Edward Logue.

16. That the U. S. Marshal failed to adequately supervise and provide adequate surveillance for Reagan Edward Logue after he had been returned to the Nueces County Jail on or about May 24, 1968 and that such failure was negligence and a proximate cause of the death of the said Reagan Edward Logue.

17. That the Sheriff's Department of Nueces County was negligent in failing to provide adequate supervision and surveillance of Reagan Edward Logue after he had been returned to the Nueces County Jail on or about May 24, 1968 and that such negligence was a proximate cause of the death of the said Logue.

18. That leaving the said Reagan Edward Logue unattended in his cell, alone, and without keeping him under surveillance, was negligence on the part of the Sheriff's Department and that such negligence was a proximate cause of the death the said Reagan Edward Logue. Alternatively, the failure of the Deputy U. S. Marshal to advice the Sheriff's Deputies, to keep Reagan Edward Logue under observation or

to have someone with him following his return from [758] the hospital, was negligence and a proximate cause of the death of the said Reagan Edward Logue.

19. That immediately prior to the death of the said Reagan Edward Logue, and because of his psychotic condition and suicidal tendencies, the said Reagan Edward Logue was in a position or peril; that Defendant, acting through its agents and employees, realized that the said Reagan Edward Logue was in a position or peril which he could not protect himself and that such realization and discovery of such perilous position of the said Reagan Edward Logue was in time for Defendant to have avoided the occurrence in question by the exercise of ordinary care in the use of means available to Defendant consistent with Defendant's duties and without danger to Defendant nor to the public; but that after such discovery and realization Defenadnt failed to exercise ordinary care in the use of the means available to avoid the occurrence and that such failure was a proximate cause of the death of Reagan Edward Logue.

20. That in the event the court finds that the acts of Plaintiff and/or third parties were a cause of the death of Reagan Edward Logue that such act or acts were not a sole cause of such death and that in any event the acts of the Defendant were a new and independent cause of the death of Reagan Edward Logue.

21. That Plaintiff Alice Marie Logue has suffered damages in the sum of \$\_\_\_\_\_ as a result of the death of Reagan Edward Logue.

22. That Orval Logue has suffered damages in the sum of \$\_\_\_\_\_ as a result of the death of Reagan Edward Logue.

23. That Orval Logue is representative of the Estate of Reagan Edward Logue, is entitled to recover the sum of \$\_\_\_\_\_ for conscious pain and suffering and mental anguish of the deceased on the occasion in question and for reasonable funeral expenses incurred due to the death of said Reagan Edward Logue.

24. That the death of the said Reagan Edward Logue was not the result of an unavoidable accident.

[759]

#### CONCLUSIONS OF LAW

1. That this court has jurisdiction and venue herein pursuant to 28 U.S.C., Sec. 1346(b) and Secs. 2671-2680.

2. That Defendant United States owed Reagan Edward Logue a duty to provide for his safe keeping under the provisions of 18 U.S.C., Sec. 4086 and Sec. 4042(2) and (3).

3. That such duty included protecting the said Reagan Edward Logue from his own acts while he is insane or mentally disturbed.

4. That such duty was breached by the United States, acting through its employees and agents, to-wit the U. S. Marshal and the Sheriff's Deputies of

Nueces County, Texas, carrying out their duties in the arrest, incarceration and detention of the said Reagan Edward Logue.

5. That there existed such a relationship between the United States and the persons and agencies having custody of the deceased so that the negligent act of such persons and agencies is imputed to the United States.

That Plaintiffs are entitled to judgment against Defendant United States in the following amounts, to-wit: Orval Logue, individually \$\_\_\_\_\_; Alice Marie Logue \$\_\_\_\_\_; Orval Logue as representative of the Estate of Reagan Edward Logue, deceased, \$\_\_\_\_\_.

Respectfully submitted,

EDWARDS & DE ANDA

By J. DE ANDA

Attorneys for Plaintiffs

[760]

DEFENDANT'S PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW

FINDINGS OF FACT

(Caption Omitted)

(Filed January 25, 1971)

1. On May 22, 1968, Reagan Edward Logue was arrested by Deputy United States Marshal Del W. Bowers in Corpus Christi, Texas, on a bench warrant issued by Judge Ben A. Connally charging the said Reagan Edward Logue with conspiracy to smuggle 229 pounds of marijuana into the United States.

2. Upon such arrest Reagan Edward Logue was placed in the Nueces County Jail as a federal prisoner.

3. During the above-mentioned times there was a Contract For Service in Nonfederal Institution between Defendant United States of America and Nueces County, Texas, whereby the Sheriff of Nueces County agreed, among other things, to keep custody of federal prisoners in the Nueces County Jail at Corpus Christi, Texas.

4. At about 3:00 P.M. on May 23, 1968, Reagan Edward Logue, while a federal prisoner in the Nueces County Jail, inflicted a cut upon his left arm. Consequently, Reagan Edward Logue was transported to Memorial Hospital for treatment.

5. Reagan Edward Logue was treated at the Emergency Room of Memorial Hospital for the cut on his

arm and was subsequently admitted to said hospital upon the diagnosis of "psychotic reaction to LSD."

6. Dr. James H. White treated Reagan Edward Logue for the laceration and Dr. Shannon Gwin was the physician of Reagan Edward Logue during his hospital admission.

[761] 7. On May 24, 1968, at about 3:30 P.M., Dr. Shannon Gwin released Reagan Edward Logue from Memorial Hospital to the care of Deputy United States Marshal Del W. Bowers for the purpose of transferring Reagan Edward Logue back to the Nueces County Jail prior to his transfer to a federal mental institution pursuant to 18 USC §4244.

8. At about 4:00 P.M. on May 24, 1968, Reagan Edward Logue was transferred from Memorial Hospital to the Nueces County Jail.

9. The jail cell in which Reagan Edward Logue was put had been stripped of everything in it that could have been used by Reagan Edward Logue to hurt or injure himself. The only thing in the cell immediately prior to his being brought back that was not attached to the building was a mattress.

10. A precautionary surveillance upon Reagan Edward Logue was maintained by the Nueces County Sheriff's Department during his stay in the jail cell after his return from the hospital.

11. On May 25, 1968, at about 4:45 P.M., Reagan Edward Logue was found by a Deputy Sheriff hang-

ing by the neck with the bandages that had been used on the wound on his left arm. Reagan Edward Logue had died of the self-inflicted hanging.

12. No employee of the United States was guilty of any negligence in the performance of his duties in connection with the handling of Reagan Edward Logue.

13. No employee of the United States was guilty of any negligence that was the proximate cause of the death of Reagan Edward Logue.

14. The proximate cause of the death of Reagan Edward Logue was his own deliberate actions caused by a pre-existing mental condition.

15. A contributing cause of the death of Reagan Edward Logue was the actions of the Plaintiffs herein in failing to properly train, care for and give proper guidance to Reagan Edward Logue.

[762] 16. If a gauze pad, instead of a Kerlix bandage, had been applied to the cut in Reagan Edward Logue's arm prior to his release from the hospital, he would not have hanged himself.

17. The role of the Nueces County Sheriff's Deputy as to the United States of America in connection with the safekeeping, care and custody of Reagan Edward Logue, was that of independent contractor, and not that of employee.

18. The Nueces County Sheriff's Department fur-

nished physical facilities, personnel and related services for custodial care of prisoners of the United States of America during the times mentioned in this action, and in so doing were not supervised or controlled in the details of the service so rendered.

19. Had Reagan Edward Logue lived, he would not have provided any pecuniary benefits to the Plaintiffs herein during the remainder of his life.

### CONCLUSIONS OF LAW

1. The actions of the Deputy United States Marshals in connection with the caring for, handling, and protection of Reagan Edward Logue, were discretionary function actions within the purview of 28 USC §2680.

2. The action of contracting out the care and custody of federal prisoners in the status of Reagan Edward Logue, including specifically the said Reagan Edward Logue, to an independent contractor such as the Sheriff of Nueces County was a discretionary function within the meaning of 28 USC §2680.

3. There was no duty owed to Plaintiffs by the Deputy United States Marshals to protect Reagan Edward Logue from hanging himself while the said Reagan Edward Logue was incarcerated in the Nueces County Jail.

4. Plaintiffs are not entitled to recover any damages from Defendant United States of America because they have failed to show [763] any negligence



on the part of any employee of the United States of America acting within the course and scope of his employment.

5. Defendant United States of America has no control or authority over the general safekeeping, supervision, or control of the prisoners in the Nueces County Jail.

6. Any acts of the employees of the Nueces County Sheriff's Department, which might be deemed negligent, in connection with the safekeeping, care and custody of Reagan Edward Logue during his incarceration in the Nueces County Jail, cannot be imputed to the United States of America.

7. The United States of America cannot be held liable for any tortious acts, if any, committed by the employees of the Nueces County Jail in connection with the safekeeping, care, and custody of Reagan Edward Logue during his incarceration in said jail during the time in question.

ANTHONY J. P. FARRIS  
United States Attorney

By: GEORGE R. PAIN  
George R. Pain  
Assistant United States Attorney  
Attorneys for Defendant,  
United States of America

CERTIFICATE OF SERVICE (Omitted)

[764]

## PRE-TRIAL ORDER

(Caption Omitted)

(Filed January 26, 1971)

Pursuant to the pre-trial conference held in the above numbered cause, the following pre-trial order is entered:

## COUNSEL

Plaintiffs are represented by Edwards & DeAnda (William R. Edwards or James DeAnda) 12th Floor Wilson Building, P. O. Drawer 480, Corpus Christi, Texas 78403 (Telephone No. 882-2637, A.C. 512).

The United States of America is represented by the United States Attorney for the Southern District of Texas (George R. Pain and Jack Sheppard), P. O. Box 61129, Houston, Texas 77061 (Telephone No. 226-4765, A.C. 713).

## STATEMENT OF THE CASE

Reagan Edward Logue, eighteen years of age, died by his own hand by hanging on or about May 25, 1968, while in the custody of the Defendant (U. S. Marshal) in the Nueces County Jail, Corpus Christi, Texas.

This is a suit for damages arising from such death of Reagan Edward Logue, alleged to have been proximately caused by the negligence of the United States, Defendant, acting by and through its duly authorized agents, servants and employees, acting within the scope and course of their authority and employment as United States Marshals. This action is brought by

Orval C. Logue under the Texas Wrongful Death Act on behalf of himself as adoptive father of Reagan Edward Logue, and on [765] behalf of Alice Marie Logue, the natural mother of the deceased, and on behalf of the Estate of Reagan Edward Logue for conscious pain and suffering and mental anguish and funeral expenses.

### JURISDICTION

The parties agree that this court has full and complete jurisdiction of the subject matter and of the parties, and that venue is proper as laid.

### MOTIONS

There are no motions pending which have not been acted on as of the date of this Order.

### CONTENTIONS OF THE PARTIES

Plaintiff contends as follows:

1. Reagan Edward Logue is dead at the age of eighteen years.
2. He died by his own hand on or about May 25, 1968, by hanging, while in the custody of the Defendant in the Nueces County Jail, of Corpus Christi, Texas.
3. Orval C. Logue, age 54, is the adoptive father of Reagan Edward Logue and Alice Marie Logue, age 35, is the natural mother of Reagan Edward Logue, deceased.
4. Orval C. Logue and Alice Marie Logue are all of the persons entitled to recover under the Texas

Wrongful Death Act because of the death of Reagan Edward Logue.

5. On or about May 22, 1968, Reagan Edward Logue, deceased, was taken into federal custody and incarcerated in the Nueces County Jail, Corpus Christi, Texas, by Defendant acting by and through its agents, servants and/or employees, each and all of whom were acting within the scope and course of their authority and employment as U. S. Marshals.
- [766] 6. On or about May 23, 1968, the said Reagan Edward Logue, following a tendency known to Defendant, or, which in the exercise of reasonable care the Defendant should have known, attempted to commit suicide, and he was taken by one or more members of the Nueces County, Texas, Sheriff's Department to Memorial Medical Center, Corpus Christi, Texas, for treatment of his self-inflicted wounds.
7. Upon arrival at Memorial Medical Center, Corpus Christi, Texas, on or about May 23, 1968, the said Reagan Edward Logue was admitted to medical care in the emergency room and thereafter transferred to the psychiatric ward of the said hospital, unto the care of a trained psychiatrist and medical doctors, where he remained until on or about May 24, 1968, at which time he was removed or caused to be removed from the care of his doctors and the hospital to a cell in the Nueces County Jail by Defendant, acting by and through its duly authorized agents, servants and employees, each and all of

whom, as aforesaid, were acting within the course and scope of their authority and employment as U. S. Marshals.

8. At the time Reagan Edward Logue was removed from the care of his doctor and from the hospital as aforesaid, the Defendant, by and through its duly authorized agents, servants and/or employees, each and all of whom was acting within the scope and course of his authority and employment as U. S. Marshals, was fully apprised of the fact, or in the exercise of reasonable care should have been fully apprised of the fact, that the youth had been demonstrating suicidal tendencies, that the doctors attending the said Reagan Edward Logue [767] were concerned for his safety and were advising and pleading against removing the said Reagan Edward Logue from the hospital, and that to remove the said Reagan Edward Logue from the care of his doctors and from the care of the hospital to the Nueces County Jail, would, in reasonable probability, endanger the youngster in body and life.
9. Notwithstanding such circumstances and knowledge, with utter disregard for the safety and well-being of the said Reagan Edward Logue, without justifiable cause and in disregard of the duties imposed upon it by law, and in the face of the pleadings of the boy's mother and doctor, the said Defendant, acting by and through its duly authorized Marshals, each and all of whom were acting within the course and scope of their

employment for the Defendant, as aforesaid, removed the said Reagan Edward Logue from the care of his doctors and the hospital to the Nueces County Jail on or about May 24, 1968.

10. On or about May 25, 1968, having been so removed from the hospital to the Nueces County Jail against all medical recommendations, as aforesaid, Reagan Edward Logue did in fact succeed in taking his own life, as it had been predicted he would, using as his hangman's noose the very bandages which swathed the wounds remaining from his earlier attempt at suicide.
11. Accordingly, the death of Reagan Edward Logue, deceased, was proximately caused by acts of omission and commission on the part of the said Defendant, acting by and through its duly authorized agents, servants and employees, who were acting within the scope of their employment as U. S. Marshals, which acts and omissions, collectively [768] and severally constituted negligence, such negligence being the following:
  - (a) In removing Reagan Edward Logue from the care of his doctors and from Memorial Hospital on or about May 24, 1968, and returning him to jail contrary to the recommendations of the medical doctors attending Reagan Edward Logue.
  - (b) Alternatively, in failing to ascertain medical recommendations with reference to appropriate measures to be taken concerning the

safety and safe-keeping of Reagan Edward Logue upon his removal from the hospital.

- (c) In incarcerating Reagan Edward Logue in the Nueces County Jail on or about May 24, 1968, at a time when it knew, or in the exercise of ordinary care should have known, that to do so would endanger Reagan Edward Logue in life and body and would probably result in his death.
- (d) In failing to provide adequate supervision and surveillance of Reagan Edward Logue after he had been returned to the Nueces County Jail on or about May 24, 1968, up to the time of his death on or about May 25, 1968.
- (e) In failing to take adequate and proper precautions for the safety and well-being of Reagan Edward Logue under the circumstances while he was in the custody of the Defendant and after he had been removed from the hospital by a U. S. Marshal on or about May 24, 1968.
- (f) In failing to take adequate precautions to assure that Reagan Edward Logue would not have in his possession the means of harming or [769] killing himself after he was returned to the Nueces County Jail on or about May 24, 1968.
- (g) In leaving Reagan Edward Logue unattended in his cell.

- (h) In failing to adequately and properly advise the Nueces County, Texas, Sheriff's Department of the precautions reasonably necessary to prevent Reagan Edward Logue from taking his own life.
  - (i) Alternatively, the failure of the Sheriff's deputies acting as agents and employees of Defendant, to keep Logue under surveillance.
  - (j) In failing to provide for the safe-keeping of Reagan Edward Logue, following his arrest and during his incarceration contrary to 18 U.S.C.A., Sec. 4086 and Sec. 4042 (2) and (3).
12. That before the suicide of Reagan Edward Logue, because of his psychotic condition and suicidal tendency, he was in a position of peril and that Defendant realized that the said Reagan Edward Logue was in such position from which position of peril he could not protect himself; that Defendant's discovery and realization of such perilous position of the said Reagan Edward Logue was in time for Defendant to have avoided the occurrence in question by the exercise of ordinary care in the use of means available to Defendant consistent with Defendant's duties and without danger to Defendant nor to the public; that after such discovery and realizations said Defendant failed to exercise ordinary care in the use of the means available to avoid the occurrence in question and that such failure was a proximate cause of the occur-



rence, to-wit the death of Reagan Edward Logue by suicide.

- [770] 13. That as a matter of law, no act of Plaintiffs could be a proximate cause of the death of Reagan Edward Logue, but in any event, the acts and omissions of the Defendant above set forth, jointly and severally, were a new and independent cause of the death of Reagan Edward Logue.
14. That Plaintiff Orval Logue is entitled to damages in the amount of at least Fifteen Thousand Dollars (\$15,000.00) for loss of pecuniary benefits in money, property and/or services that such Plaintiff had a reasonable expectation of receiving from his deceased son during the life of the said Orval Logue.
15. That Plaintiff Alice Marie Logue is entitled to recover damages in the sum of Twenty-Five Thousand Dollars (\$25,000.00) for loss of pecuniary benefits in money, property and/or services that such Plaintiff had a reasonable expectation of receiving from her deceased son during the life of the said Alice Marie Logue.
16. That the Estate of Reagan Edward Logue, deceased is entitled to recover the sum of Twenty-Thousand Dollars (\$20,000.00) for conscious pain and suffering and mental anguish of Reagan Edward Logue, and for reasonable funeral expenses incurred due to the death of the said Reagan Edward Logue.

[771] Defendant contends as follows:

1. That on or about May 22, 1968, Reagan Edward Logue was arrested by a Deputy U. S. Marshal pursuant to a warrant for his arrest on a sealed indictment charging the said Mr. Logue and ten others with conspiracy to illegally smuggle into the United States 229 pounds of marijuana. At the time of this arrest, Mr. Logue was under the influence of some drug.
2. Upon the arrest of Mr. Logue, he was taken to the Nueces County Jail and was incarcerated therein.
3. On or about May 23, 1968, Reagan Edward Logue inflicted upon himself wounds and was taken from the Nueces County Jail to the Emergency Room of the Memorial Medical Center of Corpus Christi, Texas. Thereafter, Mr. Logue was transferred to the psychiatric ward of said hospital, where he remained until on or about May 24, 1968.
4. On or about May 24, 1968, the Chief of the Criminal Section of the U. S. Attorney's Office, Ronald J. Blask, in Laredo, Texas, was notified of the foregoing circumstances, and consequently conferred with the Honorable Ben C. Connally, U. S. District Judge, with regard to committing Reagan Edward Logue, deceased, to a mental institution to determine his mental competency. At that conference it was determined that such action should be taken. The order was prepared for the Court's signature and was entered the next day.

5. Pursuant to the conference with the Court of May 24, 1968, Deputy U. S. Marshal Gerald Jones, on May 24, 1968, contacted Deputy U. S. Marshal Del W. Bowers to determine if Mr. Logue could be released from the hospital and if he could be made ready for transfer to the federal mental hospital.
- [772] 6. This information was transmitted to Mr. Logue's physician who thereupon authorized Mr. Logue's release from the hospital.
7. Mr. Logue was then transferred to a cell in the Nueces County Jail to await transfer to a federal mental institution to determine his mental competency.
8. Prior to Mr. Logue's return from the hospital to the Nueces County Jail on May 24, 1968, upon instructions from Deputy Marshal Jones, certain precautions were taken to protect Mr. Logue from possible harm. Every loose object in the cell was removed, including all of the bedclothing of the bunk except the mattress. The only objects left in the cell to be occupied by deceased were those attached to the building, with the exception of the mattress. In addition, the deceased was stripped of all his clothing, except his undershorts and the bandage upon his arm, upon admission to the cell.
9. On or about May 25, 1968, while in the Nueces County Jail, Reagan Edward Logue took his own life by hanging himself with bandages put on him at the Medical Center Hospital for the

self-inflicted wounds sustained by deceased on May 23, 1968.

10. The proximate cause of the death of Reagan Edward Logue, deceased, was not due to any act or omission of an employee or agent of Defendant as alleged by Plaintiff for the following reasons:
  - (a) The deceased was removed from the Memorial Hospital on May 24, 1968, pursuant to a conference with the Court and upon the release by Mr. Logue's doctor.
  - (b) Reasonable and prudent precautions, supervision and surveillance were taken by Deputies Gerald Jones and Del Bowers in connection with the incarceration of Reagan Edward Logue in the Nueces County Jail. Reasonable steps were taken [773] prior to Mr. Logue's return to the cell by having it stripped of every loose object (except one mattress) with which Mr. Logue could hurt himself. Excess clothing was removed from Mr. Logue. Items such as cooking utensils, knives, forks, spoons, razor blades, toothbrush, were removed.
  - (c) Nueces County Jail officials and Sheriff's Department were advised by Deputy Marshall Gerald Jones of the steps to be taken to return Mr. Logue to this cell.
11. The proximate cause of the death of Reagan Edward Logue was a pre-existing mental condition for which the Deputy Marshals were not

responsible. His prior police record should have alerted his parents to the need for proper medical attention. This record includes the following:

- 12-13-62; Disturbing the Peace; released to parents
- 12-30-62; Vandalism, released to parents
- 6-16-64; Disorderly conduct; released to parents
- 4-14-66; Theft; released to Juvenile Shelter
- 2-20-67; Possession of marijuana
- 2-20-68; Possession of marijuana
- 4-02-68; Possession of LSD and marijuana
- 4-28-68; Auto theft
- 5-22-68; Conspiracy to smuggle 229 pounds of marijuana

12. A further proximate cause of death of Reagan Edward Logue was the failure of the Plaintiffs Orval Logue and Alice Marie Logue to provide the proper guidance and medical attention for their son when they knew that the circumstances clearly indicated a need for such attention. They were aware of his need for such guidance and medical attention for many years when the deceased began to deviate from a normal childhood pattern. After notice of numerous arrests, the Plaintiffs [774] herein wholly failed to provide the proper concern, guidance and medical attention for their son. Such failures by the Plaintiff were proximate causes of Reagan Edward Logue's willful act.

## ADMISSIONS OF FACT

1. That on or about June 28, 1968, the required administrative claim asserting the cause of action herein brought was properly filed and that this suit was filed more than six months following the filing of such claim, and that the United States has failed to either accept or reject said claim.
2. That Reagan Edward Logue is dead, having died by his own hand on or about May 25, 1968, at the age of eighteen years.
3. That on or about May 22, 1968, Reagan Edward Logue was taken into Federal custody and incarcerated in the Nueces County Jail by Defendant, acting by and through its agents and employees, who were acting within the scope of their employment for Defendant; that said incarceration was pursuant to bench warrant issued out of the Laredo Division of this court charging Logue with conspiracy to smuggle 229 pounds of marijuana into the United States.
4. That on May 23, 1968, while in the County Jail, Reagan Edward Logue cut himself and was taken from the Nueces County Jail to the Memorial Medical Center, a hospital in Corpus Christi, Texas; that such cutting was a self-inflicted injury for which he was treated at the hospital and that the said Reagan Edward Logue remained in the hospital until May 24, 1968, on which date he was returned to the Nueces County Jail by a Deputy U. S. Marshal.

5. That on May 25, 1968, Reagan Edward Logue hanged himself in the Nueces County Jail, using bandages which had been applied in the treatment of a self-inflicted cutting wound to his arm.

[775]     **CONTESTED ISSUES OF FACT**

1. Whether the death of Reagan Edward Logue was proximately caused by one or more acts of negligence, both of omission and commission, on the part of the said Defendant, acting by and through its duly authorized agents, servants and employees, which acts and omissions Plaintiff contends are the following:

- (a) In removing Reagan Edward Logue from the care of his doctors and from Memorial Hospital on or about May 24, 1968, and returning him to jail contrary to the recommendations of the medical doctors attending Reagan Edward Logue.
- (b) Alternatively, in failing to ascertain medical recommendations with reference to appropriate measures to be taken concerning the safety and safekeeping of Reagan Edward Logue upon his removal from the hospital.
- (c) In incarcerating Reagan Edward Logue in the Nueces County Jail on or about May 24, 1968, at a time when it knew, or in the exercise of ordinary care should have known, that to do so would endanger Reagan Edward Logue in life and body and would probably result in his death.

- (d) In failing to provide adequate supervision and surveillance of Reagan Edward Logue after he had been returned to the Nueces County Jail on or about May 24, 1968, up to the time of his death on or about May 25, 1968.
- (e) In failing to take adequate and proper precautions for the safety and well-being of Reagan Edward Logue under the circumstances while he was in the custody of the Defendant and after he had been removed from the hospital by a U. S. Marshal on or about May 24, 1968.
- [776] (f) In failing to take adequate precautions to assure that Reagan Edward Logue would not have in his possession the means of harming or killing himself after he was returned to the Nueces County Jail on or about May 24, 1968.
- (g) In leaving Reagan Edward Logue unattended in his cell.
- (h) In failing to adequately and properly advise the Nueces County, Texas, Sheriff's Department of the precautions reasonably necessary to prevent Reagan Edward Logue from taking his own life.
- (i) Alternatively, the failure of the Sheriff's deputies acting as agents and employees of Defendant, to keep Reagan Edward Logue under surveillance.
- (j) In failing to provide for the safekeeping of Reagan Edward Logue, following his arrest and during his incarceration contrary to 18 U.S. C.A., Sec. 4086.



2. Whether, before the suicide of Reagan Edward Logue, because of his psychotic condition and suicidal tendency, he was in a position of peril and whether Defendant realized that the said Reagan Edward Logue was in a position from which position of peril he could not protect himself; whether Defendant's discovery and realization of such perilous position of the said Reagan Edward Logue was in time for Defendant to have avoided the occurrence in question by the exercise of ordinary care in the use of means available to Defendant consistent with Defendant's duties and without danger to Defendant nor to the public; whether after such discovery and realizations said Defendant failed to exercise ordinary care in the use of the means available to avoid the occurrence [777] in question and whether such failure was a proximate cause of the occurrence, to-wit the death of Reagan Edward Logue by suicide.

3. Were the Sheriff's deputies and jailers acting as agents of and/or employees of the Defendant, and were such officials acting within the scope of such agency and/or employment while Logue was in their custody.

4. Whether Logue was removed from the hospital to jail contrary to medical advice.

5. If Plaintiffs or third parties were negligent, were the acts of Defendant a new and independent cause of the death of Reagan Edward Logue.

6. The amount of damages which should be awarded to Plaintiffs in the event that they are

entitled to a recovery herein, said elements of damages being as follows:

- (a) To Alice Marie Logue for loss of pecuniary benefits in money, property and/or services that she had a reasonable expectation of receiving from her deceased son during her lifetime.
- (b) The amount of damages that Plaintiff Orval Logue is entitled to recover for loss of pecuniary benefits in the money, property and/or services that he had a reasonable expectation of receiving from his deceased son during the life of the said Orval Logue.
- (c) The amount of damages the Estate of Reagan Edward Logue, deceased is entitled to recover for conscious pain and suffering and mental anguish of said deceased on the occasion in question, and for reasonable funeral expenses incurred due to the death of the said Reagan Edward Logue.

7. Whether or not the death of Reagan Edward Logue was unavoidable and resulted in spite of the exercise of reasonable care and without negligence on the part of the Defendant.

[778] Defendant contends, over Plaintiff's objections, that there are additional contested issues of fact as follows:

8. Was the attending physician of Reagan Edward Logue, while he was a psychiatric patient in the

Memorial Medical Center, guilty of negligence in releasing the said Reagan Edward Logue to the custody of the Deputy U. S. Marshal on or about May 24, 1968; and if there was negligence, was such negligence a proximate or contributing cause of the death of Reagan Edward Logue.

(Plaintiff contends that the foregoing issue is not an ultimate fact issue in that in order to bar a recovery, the negligence above alleged, and which Plaintiff denies, must be the sole proximate cause of the death).

9. Whether or not Reagan Edward Logue was guilty of willful conduct which was the sole cause or a contributing cause of his own death?

(Plaintiff contends that the foregoing issue is not relevant for the reason that under all of the evidence developed in the case, Logue was unbalanced at the time of his death and as a matter of law his acts could not be "willful"; further even if such suicidal act was "willful", it is irrelevant in a custodial situation such as is presented in this case.)

Plaintiff further objects to the foregoing issue because it is vague and indefinite and not limited to specific acts of conduct nor does such issue delineate the time or times at which such conduct occurred.

10. Whether or not the existing condition and background of Reagan Edward Logue was a proximate or contributing cause of his death?

(Plaintiff contends that the foregoing is not an ultimate fact issue in this case and that such issue

is irrelevant to the disposition of this cause; and in any event, such issue is vague and indefinite and does not apprise either the Plaintiff nor the court of specific pre-existing conditions and background to which such issue refers).

[779] 11. Whether the acts, omission, and general conduct of Plaintiff, as parents of Reagan Edward Logue, were a proximate and contributing cause of the death of Reagan Edward Logue?

(Plaintiffs contend that the foregoing issue is not an ultimate fact issue in this case and that such issue is irrelevant to the ultimate disposition of this suit; further that such issue is vague and indefinite and does not apprise either the Plaintiffs nor the court of the specific acts of conduct and the times of such acts, to which the issue relates).

### CONTESTED ISSUES OF LAW

1. If the act of Reagan Edward Logue was "voluntary", whether or not there is a duty owed to him by Defendant to protect him against his own voluntary acts?
2. If there is such a duty as indicated in the foregoing issue, is such duty owed to the Plaintiffs?
3. Whether there is a duty on the part of a jailer, under the law, to protect a prisoner who is insane or mentally disturbed, from his own voluntary acts?
4. Whether there is a duty under Title 18, U.S. C.A., Sec. 4086, on the part of the U. S. Marshal to

use reasonable care to protect a prisoner who is insane or mentally disturbed from his own acts?

5. Whether the keeper of the Nueces County Jail is an agent, employee and/or deputy of the U. S. Marshall and/or of the United States?

6. Whether there existed such a relationship by and between the Defendant and the persons and/or agencies having custody of the deceased at all times material hereto so that any negligent act of any of such persons and/or agencies which was a proximate cause of the death of the deceased is imputed to Defendant.

[780] 7. Defendant has contended as set out herein that a proximate cause of the death of Reagan Edward Logue was a pre-existing mental condition for which Defendant was not responsible. Plaintiff contends that as a matter of law such issue is not an ultimate fact issue nor a relevant issue in that it states no defense under the law.

8. Defendant further contends as set out in this pre-trial order, that a proximate cause of the death of Reagan Edward Logue was the failure of the Plaintiffs to provide proper guidance and medical attention for their son prior to the suicide and for many years before. Plaintiffs state as a matter of law such course of conduct, even if same existed, which Plaintiff deny, could not, as a matter of law, be a defense in this case and that such issue is not a relevant nor ultimate fact issue.

9. Whether or not the action of the Deputy U. S. Marshal and/or the Nueces County Sheriff's Department in connection with the caring for, handling and protection of Reagan Edward Logue were discretionary functions within the scope of 28 U.S.C., Sec. 2680.

### WITNESSES

Plaintiff may call the following witnesses to testify:

1. Marvin Foster. Mr. Foster's deposition has been taken by the Defendant. He was the lawyer representing the deceased Logue for the offense for which he was jailed on this occasion and he will testify concerning the circumstances and happenings which occurred prior to Logue's arrest, during Logue's incarceration and concerning conversations and actions which he had all witnessed of Defendant's agents.

2. Orval Logue. Mr. Logue is the adoptive father of Reagan Edward Logue and his deposition has been taken.

3. Alice Marie Logue. Mrs. Logue is the mother of Reagan Edward Logue, deceased. Her deposition has been taken by the Defendant.

[781] 4. Dr. James H. White. Dr. White was a treating physician of the deceased Logue. His deposition has been taken and all or parts thereof will be offered by the Plaintiff in evidence.

5. Dr. Shannon Gwin, a treating physician of the

Plaintiff. Dr. Gwin's deposition has been taken in this case and he will testify in accordance therewith.

6. Del Bowers. Mr. Bowers is deceased. His deposition was taken in this case and Plaintiff anticipates offering certain parts thereof.

7. Howard Vaught. Mr. Vaught is a United States Probation Officer. At the time of the occurrence, Mr. Vaught was in Corpus Christi and was present during some of the events which transpired during Mr. Logue's incarceration prior to his death, which events are relevant to the issues in this suit. Mr. Vaught is listed as a witness for the Defendant also.

Plaintiff may call some of the witnesses listed as Defendant's witnesses herein.

Defendant expects to call the below-listed witnesses:

1. Casey Slocum, First Deputy U. S. Marshal for the Southern District of Texas, Houston, Texas, has knowledge as to the instructions he gave to Deputies Jones and Bowers on or about May 24, 1968, and also about general policies of the U. S. Marshal's Office in connection with handling of prisoners.

2. Gerald Jones, Deputy U. S. Marshal, Southern District of Texas, has knowledge of his conversations with District Judge Ben C. Connally, Assistant U. S. Attorney Ronald J. Blask, Deputy Del Bowers, Marvin Foster, Tom Lowrance, and Deputy Marshal Casey Slocum on or about May 24, 1968.

3. Del Bowers. Mr. Bowers is a former Deputy U. S. Marshal who is now deceased. His deposition was taken.

4. Tom Lowrance, Chief Jailer of the Nueces County Jail on or about May 24, 1968, can recall his conversations had with Deputy Jones and Deputy Bowers and the arrangements he caused to be made at the Nueces County Jail to safely keep Reagan Edward Logue.

[782] 5. P. E. Clayton of Corpus Christi, has knowledge of the conference had between Deputy Bowers and Dr. Shannon Gwin on or about May 24, 1968.

6. Ronald J. Blask, Department of Justice Attorney, can recall his conference with U. S. District Judge Ben C. Connally in connection with committing Reagan Edward Logue to a federal mental institution for purposes of determining his competency to stand trial.

7. Frank Reyna, Nueces County Deputy Sheriff, was on guard duty at the Memorial Medical Center guarding Reagan Edward Logue on or about May 24, 1968.

8. Jack Todd, Nueces County Deputy Sheriff, was on guard duty at the Memorial Medical Center guarding Reagan Edward Logue on or about May 24, 1968.

9. W. E. Strait, Nueces County Deputy Sheriff, was on guard duty at the Memorial Medical Center



guarding Reagan Edward Logue on or about May 24, 1968.

10. Dorothy Roby, a sociology and psychology instructor at King High School in 1967 and 1968, had various contacts and knowledge of Reagan Edward Logue.

11. James L. Stone, Assistant Principal of King High School in 1968, had various contacts with Reagan Edward Logue.

12. Edith Done, Guidance Counselor at King High School in 1968, had various contacts with Reagan Edward Logue.

13. Jeff Bagwell, Identification Officer, Corpus Christi Police Department, has knowledge of the record of arrest of Reagan Edward Logue with the Corpus Christi Police Department.

14. W. L. Burch, Identification Officer, Nueces County Sheriff's Office, had knowledge of the record of arrests of Reagan Edward Logue on file with the Nueces County Sheriff's Department.

15. Mrs. Barbara Blundell, Bookkeeper, Berry Construction Co., has knowledge of the employment record of Reagan Edward Logue with that company.

[783] 16. Commander Nich Bauman, Patrol Division, Corpus Christi Police Department, can recall his contacts with Reagan Edward Logue.

17. Howard Vaught, U. S. Probation Officer, Corpus Christi, can testify to the contents of his official pre-sentence investigation records on Reagan Edward Logue.

18. Henry Griffin, U. S. Probation Officer, Waco, Texas, can testify to the contents of his official pre-sentence investigation records on Reagan Edward Logue.

19. Paul Barber, Deputy Sheriff, Nueces County in 1968, observed Reagan Edward Logue in his cell at the Nueces County Jail shortly before the said Reagan Edward Logue's death.

20. Penrod Harris, Special Agent, FBI, in his investigation, talked with Dr. James H. White and others concerning this incident.

In the event there are any other witnesses to be called, their names, addresses, and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to rebuttal witnesses, the necessity of whose testimony cannot be reasonably anticipated before the time of the trial.

### EVIDENCE

The Parties agree that all medical records of Memorial Medical Center may be offered and introduced in evidence without formal proof of authenticity but subject to any legal objection as to their admissibility in the trial of this case, and that prior

to such trial, the party tendering such evidence shall make available a copy of same to the other party. The foregoing stipulation applies to the order of Judge Ben Connally committing the deceased to a psychiatric facility and to the contract for services between the United States Department of Justice and Nueces County, Texas, pertaining to the use of the Nueces County Jail for the safe keeping, care, and subsistence of persons held under authority of the United States.

[784] In the event that there are other documents to be offered in evidence which are not anticipated at the time of this order, they will be tendered to opposing counsel as soon as their materiality is discovered.

That according to the United States Department of Health, Education and Welfare, vital statistics of the United States for the year 1967, a person 18 years of age has a life expectancy of 54.7 years.

Respectfully submitted,

EDWARDS & DE ANDA

By J. DE ANDA

Attorneys for Plaintiffs

UNITED STATES ATTORNEY

By GEORGE R. PAIN

Attorneys for Defendant

APPROVED this 26th day of January, 1971.

OWEN D. COX

United States District Judge

## [785] MEMORANDUM AND OPINION

(Caption Omitted)

(Filed February 17, 1971)

Reagan Edward Logue, a Federal prisoner, hanged himself in the Nueces County jail. His adoptive father, Orval C. Logue, has brought this suit under the provisions of the Federal Tort Claims Act, 28 U.S.C., § 2671, et seq, to recover damages from the government under the Texas Wrongful Death Act, Article 4671, et seq, Revised Civil Statutes of Texas (1925), as amended, for himself and for Reagan Edward Logue's mother, Alice Marie Logue, now Mrs. Blouin, and on behalf of the Estate of Reagan Edward Logue for the decedent's pain and suffering and for funeral expenses. This Court has full and complete jurisdiction of the subject matter of the parties and venue properly lies.

The Court finds the following facts surrounding the death of Reagan Edward Logue:

1. On May 22, 1968, the deceased, then eighteen years of age, was arrested by Deputy United States Marshal Del W. Bowers in Corpus Christi, Texas, on a bench warrant charging the said Reagan Edward Logue with conspiracy to smuggle 229 pounds of marijuana into the United States, and he was placed in the Nueces County jail as a Federal prisoner.

2. At about 3:00 p.m. the next day, the prisoner attempted suicide by inflicting a serious cut upon his left arm. Thereafter, he was transported from the jail

to Memorial Hospital, where he was treated for the laceration and admitted with a diagnosis that he was acutely psychotic.

[786] 3. On May 24, 1968, Deputy Marshal Bowers, after conferences with his superiors in the Marshal's Office and with Shannon Gwin, M.D., the prisoner's medical doctor, decided to return the prisoner to the Nueces County jail. Dr. Gwin recommended to the Deputy Marshal that the prisoner remain in the hospital until he could be transferred to another medical facility. At this time, the prisoner had serious suicidal tendencies and his condition was not improved over what it had been when he was admitted to the hospital the day before.

4. At about 3:30 p.m. on the same day, Dr. Gwin, because he thought he had no choice released the prisoner from the hospital to Deputy Marshal Bowers, who returned him to the Nueces County jail, pending his transfer to a Federal mental institution.

5. Deputy Bowers knew the prisoner had serious suicidal tendencies and should be protected against injuring or killing himself, and at Deputy Bowers' request, the prisoner was put in a cell which had been stripped of everything except the bunk with a mattress, the commode and wash basin. The steel walls and ceiling of the cell were symmetrically perforated with round holes about the size of a half dollar. There was no ceiling light fixture. No specific arrangements were made by the Deputy Marshal for constant surveillance of the prisoner, and this was negligence.

6. The Sheriff's employees in the jail knew the prisoner had serious suicidal tendencies, and they did make precautionary surveillance checks after his return from the hospital, but those surveillance checks were made usually in connection with bringing some other prisoner onto the floor where Reagan Edward Logue was incarcerated. This was inadequate surveillance and was negligence.

7. When the prisoner was returned to the Nueces County jail on May 24, 1968, he had a long Kerlix bandage on his arm. At about 4:30 p.m. on the afternoon of the next day he removed the bandage and hanged himself with it. Each act [787] of negligence above mentioned was a proximate cause of his death.

8. During the above-mentioned times, there was a contract for service in non-Federal institutions between Defendant United States of America and Nueces County, Texas, whereby the Sheriff of Nueces County agreed, among other things, to keep custody of Federal prisoners in the Nueces County jail at Corpus Christi, Texas. At all times material hereto, the Deputy United States Marshals involved in the arrest and detention of Reagan Edward Logue were acting within the scope of their employment for the United States government; and the members of the Sheriff's Department were acting within the scope of their employment.

The Court draws the following conclusions of law from the facts heretofore set out:

1. The decision of Deputy United States Marshal Bowers and his superiors to remove Reagan Edward Logue from the hospital to the Nueces County jail was a discretionary act within the purview of 28 U.S.C., § 2680; but, that decision having been made, the Deputy Marshal had a duty to see that reasonable care be taken at the jail to protect the prisoner against another suicidal attempt. *Smart v. United States*, 10 Cir., 207 F.2d 841; *Costley v. United States*, 5 Cir., 181 F.2d 723.

2. The government is not an insurer of the safety of its prisoner; however, once it became aware, through the knowledge of the Deputy Marshals involved, of the psychotic condition and suicidal tendencies of this prisoner, the reasonable care which the government was required to take was that care necessary to make certain the prisoner did not commit suicide while in jail. *Lange, et al, v. United States*, 179 F.Supp. 777; *United States v. Gray*, 10 Cir., 199 F.2d 239.

[788] 3. The fact that there was a contract existing between Defendant and Nueces County regarding the care and custody of Federal prisoners in the status of Reagan Edward Logue who are kept in the Nueces County jail, did not relieve the Defendant of its responsibility to such prisoners, and particularly to Reagan Edward Logue, under 18 U.S.C., § 4042. *Williams v. United States, et al*, 9 Cir., 405 F.2d 951.

4. Whether the Deputy United States Marshal failed to adequately inform the Nueces County jailer as to the necessity for constant surveillance or the

jailer failed to carry out the suggested constant surveillance needed for the protection of the prisoner, makes no difference. *Williams v. United States*, supra; *In Re Morgan*, 80 F.Supp. 810. The government was bound by those negligent acts in either instance.

5. The pre-existing mental condition of the prisoner and mistakes of the natural mother and the adoptive father in the guidance and medical attention provided for their deceased son are not pertinent. The negligence of the United States was the proximate cause of Reagan Edward Logue's death.

The Court must now determine the extent of the Defendant's liability to the Plaintiffs, and this is not an easy task. The adoptive father and the natural mother of the deceased Reagan Edward Logue may recover only the pecuniary benefits they might expect to receive. The determination of their recovery cannot be left to mere guess or conjecture, nor prompted by sympathy.

This young man was first arrested for possession of marijuana in 1967 and thereafter he was extensively involved in drug traffic, as a user and a pusher, in Corpus Christi and Austin, Texas. He had already pleaded guilty to possession of LSD for the purpose of sale in the United States District Court in Austin, Texas, but was not yet sentenced when he was arrested pursuant to an indictment in the Federal Court in [789] Laredo, Texas, for smuggling marijuana into this country. At the time of this last arrest, on May 22, 1968, he was in a serious psychotic state from the ingestion of LSD or some other toxic agent. All



conditions indicated it was extremely unlikely the deceased, had he lived, would have rendered any valuable services for the benefit of either Plaintiff, over and above their expenses, including attorneys' fees, during the remaining two and one half years of his minority.

Any pecuniary advantage to the Plaintiffs after that would obviously depend upon his rehabilitation. Both Dr. White, an intern who saw him only one time and then briefly, and the probation officer felt he could be rehabilitated. This evidence was not impressive. However, medical science continues to progress and, if the young man had lived, the Court cannot say he would not have returned to reality, and earned his own way. He did work as a boiler-maker at sixteen and seventeen years of age and was a satisfactory employee. But, whether or not he would have stayed out of trouble, or at some later date accomplished his death, his past record makes the future very uncertain.

It is also important to consider what pecuniary damages the Plaintiffs would have suffered. *Hernandez v. United States*, 313 F.Supp. 349, 364. There is little indication the adoptive father would need any appreciable pecuniary assistance. It is more likely the natural mother would someday need help. The Court finds both parents are entitled to some damages.

Suit was also brought herein on behalf of the Estate of Reagan Edward Logue, deceased, for his pain and suffering immediately prior to his death and for funeral expenses. Plaintiffs admitted in open

court that no proof had been made regarding the claim for pain and suffering. However, the estate is entitled to recover the funeral expenses.

[790] It is, therefore, ORDERED that Orval C. Logue have judgment against the United States of America in the amount of \$5,000.00, to be apportioned \$3,500.00 to Alice Marie Blouin and \$1,500 to Orval C. Logue; and the Estate of Reagan Edward Logue, deceased, takes nothing by its suit, except that it shall recover from the United States the funeral expenses in the amount of \$1,164.50.

DATED the 16th day of February, 1971.

OWEN D. COX  
United States District Judge

[791]

**NOTICE OF APPEAL**

(Caption Omitted)

(Filed May 6, 1971)

Notice is hereby given that the United States of America, Defendant above-named, hereby appeals to the United States Court of Appeals for the Fifth Circuit from the Judgment entered in this action of the 8th day of March, 1971.

Dated: May 5, 1971.

**ANTHONY J. P. FARRIS**  
United States Attorney

By: **GEORGE R. PAIN**  
George R. Pain  
Assistant United States Attorney

**CERTIFICATE OF SERVICE (Omitted)**

[792] ORDER EXTENDING TIME FOR  
TRANSMISSION OF RECORD

(Caption Omitted)

(Filed June 9, 1971)

Defendant United States of America's motion to extend time having been considered, and there being no good reason why such motion should not be granted, it is hereby

ORDERED that the time for the transmission of the record to the Court of Appeals for the Fifth Circuit is hereby extended until August 4, 1971.

DONE at Corpus Christi, Texas, this the 9th day of June, 1971.

OWEN D. COX  
United States District Judge

(Seal)

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 71-2426

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ORVAL C. LOGUE, ETC., Plaintiff-Appellee,  
versus  
UNITED STATES OF AMERICA,  
Defendant-Appellant.

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*Appeal from the United States District Court for the  
Southern District of Texas*

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(May 1, 1972)

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Before GEWIN, AINSWORTH and SIMPSON,  
Circuit Judges.

SIMPSON, Circuit Judge: Reagan Edward Logue (hereinafter Logue), on May 25, 1968, while confined in the Nueces County, Texas, jail pursuant to a federal bench warrant, hanged himself. Suit was brought against the United States to recover damages under the Federal Tort Claims Act, Title 28, U. S. Code, Chapter 171, and the Texas Wrongful Death Act, Revised Civil Statutes of Texas, Article 4671, et seq. by the deceased's adoptive

father, Orval C. Logue, his mother, Alice Marie Logue Blouin, and by Orval C. Logue for the estate of Reagan Edward Logue. The district court after an evidentiary trial rendered judgment against the United States in the following amounts: \$3,500.00 to the deceased's mother, \$1,500.00 to Orval C. Logue and \$1,164.50 to the deceased's estate for funeral expenses.

On this appeal by the United States we find no basis for holding it liable in damages for the prisoner's death. We reverse the judgment of the district court and direct entry of judgment for the appellant.

### *THE FACTS*

The 18 year old deceased was arrested on May 22, 1968, at Corpus Christi, Texas, by Deputy United States Marshal Bowers on a federal bench warrant issued by the Laredo Division of the Southern District of Texas charging conspiracy to smuggle 229 pounds of marijuana into the United States. Deputy Marshal Bowers placed the deceased in the Nueces County jail, Corpus Christi, as a federal prisoner. That facility was used as a contract jail by the United States under the provisions of Title 18, U. S. Code, Section 4002.<sup>1</sup>

1. "§4002. Federal prisoners in state institutions; employment  
For the purpose of providing suitable quarters for the safe-keeping, care, and subsistence of all persons held under authority of any enactment of Congress, the Director of the Bureau of Prisons may contract, for a period not exceeding three years, with the proper authorities of any State, Territory, or political subdivision thereof, for the imprisonment, subsistence, care and proper employment of such persons.

"Such Federal prisoners shall be employed only in the manufacture of articles for, the production of supplies for, the construction of public works for, and the maintenance and care of

About 3:00 P.M. May 23, Logue attempted suicide by cutting veins in his left arm. The wound appeared sufficiently serious for the County jailer to cause him to be taken to Memorial Hospital. There he was treated for the laceration and placed under guard in a bare room in an area of the hospital reserved for mental patients. He was seen by a psychiatrist, Dr. Shannon Gwin, and diagnosed as psychotic. There was testimony at trial that Logue also was then under the influence of an hallucinatory drug, probably LSD. Deputy Marshal Bowers sought advice from his superiors but was unable to produce a satisfactory plan to keep Logue under guard at the hospital.

On May 24, 1968, after further conferring with his superiors in the United States Marshal's Office at Laredo and at Houston and with Dr. Gwin, Deputy Marshal Bowers decided to return Logue to the Nueces County jail, despite Dr. Gwin's recommendation that the prisoner remain in the hospital until he could be transferred to another medical facility equipped to deal with his suicidal tendencies. At about 3:30 P.M. that same day, Dr. Gwin, believing that he had no choice in the matter, released Logue to Bowers, who returned him to the Nueces County jail to await processing for transfer to a federal mental institution. Bowers' trial testimony was that the decision

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the institutions of, the State or political subdivision in which they are imprisoned.

"The rates to be paid for the care and custody of said persons shall take into consideration the character of the quarters furnished, sanitary conditions, and quality of subsistence and may be such as will permit and encourage the proper authorities to provide reasonably decent, sanitary, and healthful quarters and subsistence for such persons."

to move the prisoner back to the county jail was made by his superiors.

Deputy Marshal Bowers, aware of Logue's suicidal impulses, requested the Nueces County jail authorities to provide a cell stripped of items likely to prove injurious. In compliance with this request the prisoner was placed in a cell containing nothing except a bunk with a mattress, a toilet and a wash basin. Deputy Marshal Bowers made no arrangements for Logue's cell to be under constant surveillance. Neither did the jail employees undertake continuous surveillance of the prisoner. They did look in on him as they brought other prisoners to his jail floor.

Logue was returned to the Nueces County jail on May 24, wearing a long Kerlix bandage on his injured left arm. About 4:30 P.M., May 25, he removed the bandage and hanged himself with it from his cell bars.

### *THE DECISION BELOW*

The trial court found that Deputy Marshal Bowers was negligent in failing to make arrangements for constant surveillance of the deceased when he was returned to the Nueces County jail on May 24, 1968. In addition, the court below found that the employees of the jail, having actual or constructive knowledge of Logue's suicidal tendencies, were negligent in failing to place him under constant surveillance upon his return to the jail. The district court concluded that both manifestations of negligence were attributable to the United States, thereby rendering it liable in damages for the death of Reagan Edward Logue under the Federal Tort Claims Act.



### *GROUND'S ASSERTED ON APPEAL*

The United States seeks reversal of the judgment below on three grounds:

- (1) The district court erred in finding that the negligent acts and/or omissions of the employees of the Sheriff's Office in Nueces County in their handling of a federal prisoner were attributable to the United States.
- (2) The district court erred in holding that there was a duty on the part of Deputy Marshal Bowers to provide for constant surveillance of the deceased in the jail, in that to require such surveillance was patently beyond his power or authority.
- (3) The district court's finding as to the deceased's future potential and/or prospects to make a financial contribution to the individual plaintiffs is legally insufficient to support the award of damages made.

Inasmuch as we reverse the findings below as to liability, no discussion of the adequacy of the proof as to damages (ground 3 of appeal, *supra*) appears appropriate. It is unnecessary to reach that contention.

### *LIABILITY*

Relying upon the first paragraph of Title 18, U.S.C., Section 4002 (authority for the Director of the Bureau of Prisons to contract with state and local prison officials), the United States argues that the Nueces County jail was a "contractor" within the meaning of Section 2671,

Title 28, United States Code.<sup>2</sup> From this premise, it reasons that the United States is not liable under the Federal Tort Claims Act for the negligent acts and/or omissions of the Nueces County jail's employees. Additionally, the United States contends that Deputy Marshal Bowers had no authority to require the provision of constant surveillance of the deceased while the latter was confined to the Nueces County jail.

In reply, the plaintiffs argue that Deputy Marshal Bowers was under a duty imposed by Title 18, U.S.C., Section 4042,<sup>3</sup> to insure the safety and well-being of the deceased and that a breach of that duty provides the basis for a recovery from the United States under the Federal Tort Claims Act. The claim is made that in the circumstances of this case such a breach would be

2. Title 28, U.S.C., §2671:

"As used in this chapter and sections 1346(b) and 2401(b) of this title, the term 'Federal agency' includes the executive departments, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States."

3. Title 18, U.S.C., Section 4042:

"The Bureau of Prisons, under the direction of the Attorney General, shall —

(1) have charge of the management and regulation of all Federal penal and correctional institutions;

(2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise;

(3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States;

(4) provide technical assistance to State and local government in the improvement of their correctional systems.

This section shall not apply to military or naval penal or correctional institutions or the persons confined therein."

actionable whether committed by the employees of the Nueces County jail or by Deputy Marshal Bowers.

The United States is subject to suit under the Federal Tort Claims Act for injuries suffered by federal prisoners confined in federal facilities. *United States v. Muniz*, 1963, 374 U.S. 150, 83 S.Ct. 1850, 10 L.Ed.2d 805. But we agree with the United States that *Muniz* does not extend to the situation now before us, where a federal prisoner is housed in a non-federal facility pursuant to Title 18, U.S.C., Section 4002. We interpret this section as fixing the status of the Nueces County jail as that of a "contractor". Title 18, U.S.C., Sec. 2671, footnote 2, *supra*. This insulates the United States from liability under the FTCA for the negligent acts or omissions of the jail's employees. We find no support in the record for holding that Deputy Marshal Bowers had any power or authority to control any of the internal functions of the Nueces County jail. The deputy marshal, accordingly, violated no duty of safekeeping with respect to the deceased.

*Close v. United States*, D.C. Cir. 1968, 397 F.2d 686, relied upon by the appellees, is distinguishable from the case at bar. *Close* was a suit to recover damages under the FTCA for permanent disablement to the plaintiff caused by a fall in the District of Columbia jail allegedly due to defective shoes. The plaintiff was housed in the District jail (not under the jurisdiction of the United States) pending the disposition of his appeal from a conviction by the District of Columbia district court. The Court of Appeals in *Close* reversed the district court's dismissal of the complaint, holding that Congress did not intend to suspend the availability of the Federal Tort

Claims Act to a federal prisoner incarcerated in the District of Columbia jail.

The Court of Appeals in *Close* was careful to note that the United States did not claim that the District of Columbia jail was a contractor of the Federal Government within the meaning of the contractor exception of the Federal Tort Claims Act, Title 28, U.S.C., Sec. 2671, footnote 2, *supra*. As noted above, such a claim is made with respect to the county jail here involved. The D. C. Circuit also observed the special relationship existing between the Federal Government and the Government of the District of Columbia:

"We note in this regard that, for purposes of the FTCA, Congress has defined 'Employee of the [federal] government' as including 'persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation'. 28 U.S.C. § 2671. The cases have, on occasion, regarded D. C. Governmental agencies as 'federal agencies' for purposes of the FTCA, depending upon the amenability of such agencies to federal control. We are not persuaded by anything appearing in this record that the Attorney General was, in a matter of this kind, wholly lacking in any capacity to assure the proper care of a prisoner for whose custody he was primarily and permanently responsible." 397 F.2d at 687.

The judgment of the district court is reversed and the cause is remanded with directions to enter judgment for the United States.

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 71-2426

---

ORVAL C. LOGUE, ETC., Plaintiff-Appellee,  
versus  
UNITED STATES OF AMERICA,  
Defendant-Appellant.

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*Appeal from the United States District Court for the  
Southern District of Texas*

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ON PETITION FOR REHEARING AND PETITION  
FOR REHEARING EN BANC  
(Opinion May 1, 1972, 5 Cir., 1972, \_\_\_\_ F.2d \_\_\_\_).

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(July 31, 1972)

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Before GEWIN, AINSWORTH and SIMPSON,  
Circuit Judges.

PER CURIAM: The Petition for Rehearing is DENIED and the Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not hav-

ing voted in favor of it, (Rule 35 Federal Rules of Appellate Procedure; Local Fifth Circuit Rule 12) the Petition for Rehearing En Banc is also DENIED.

Before BROWN, Chief Judge, WISDOM, GEWIN, BELL, THORNBERRY, COLEMAN, GOLDBERG, AINSWORTH, GODBOLD, DYER, SIMPSON MORGAN, CLARK, INGRAHAM and RONEY,  
Circuit Judges.

BROWN, Chief Judge, with whom, WISDOM and GOLDBERG, Circuit Judges, join dissenting from the denial of rehearing en banc:

If a Deputy United States Marshal, after discovering a tubercular prisoner's critical physical condition, nevertheless decided to consign that individual to the custody of State authorities in a county jail without first determining whether the facilities provided adequate treatment for tuberculosis victims, and without even attempting to find out whether the conditions of confinement reasonably assured continued survival, I have difficulty believing that the Government's liability under the Federal Tort Claims Act for death resulting from lack of proper medical attention or from an unsanitary environment could be avoided with the bland assertion that the Marshal had no authority to convert the jail into a hospital. Since the facts of the present case are not materially different, I suggest that this serious and previously unresolved problem involving the care of Federal prisoners temporarily confined under contract with State officials is of sufficient importance to merit en banc reconsideration by the Court.

No one disputes that the Marshal was explicitly charged by law with an affirmative duty to provide for the safe-

keeping, care and protection of persons in his custody accused of Federal offenses. 18 U.S.C.A. § 4042. No one suggests that the Marshal was not given more than fair warning of his prisoner's unmistakably suicidal tendencies as a result of his initially unsuccessful but obviously serious attempt to take his own life. No one asserts that the Marshal made any reasonably diligent effort to assure proper supervision of the prisoner while he was confined alone in his cell or that the same tragic result would have transpired if Logue had remained in a hospital equipped to provide the necessary surveillance. The only justification advanced for overturning the District Court's finding of negligence on the part of the Marshal is the conclusion that the record provides no basis for holding that he "had any power or authority to control any of the internal functions of the Nueces County jail."

Without initiating an extensive discourse on the state of the evidence—which seems to offer at least some tangible support for the theory that the Sheriff and his deputies were subject to the Marshal's control because they frequently complied with his informal instructions or suggestions<sup>1</sup>—I need only point out that the question of the Marshal's authority to effect changes in the conditions of confinement is actually irrelevant here. The breach of the statutory duty of care occurred when Logue was confined under circumstances which the Marshal knew were inherently dangerous in the absence of special precautions, regardless of what he may or may not have been empowered to do about the situation. Once the Government undertakes performance of an act entailing a duty

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1. The panel's opinion supports this position by stating that the Nueces County authorities complied with the Marshal's request that Logue be placed in a cell stripped of all items likely to prove injurious.

of ordinary care it may not thereafter avoid liability under the Federal Tort Claims Act simply by abandoning the undertaking and attempting to attribute the responsibility to someone else. *Indian Towing Company v. United States*, 1955, 350 U.S. 61, 69, 76 S.Ct. 122, —, 100 L.Ed. 48, 56; *United States v. Gavagan*, 5 Cir., 1960, 280 F.2d 319, cert. denied, 1961, 364 U.S. 933, 81 S.Ct. 379, 5 L.Ed.2d 365.

Rather than providing for Logue's safety, the Marshal simply abandoned him, thus breaching the duty of care which, "in the case of a mental patient, \* \* \* must be reasonably adapted and proportioned to his known suicidal, homicidal, or other like destructive tendencies." *United States v. Gray*, 10 Cir., 1952, 199 F.2d 239, 242. In this respect the present case is equivalent to *Underwood v. United States*, 5 Cir., 1966, 356 F.2d 92, in which liability under the Act resulted from the Air Force's negligence in permitting a mentally deranged Airman to return to unrestricted duty and to draw from the armory a pistol he subsequently used to kill his wife. There was no suggestion that liability was contingent upon the exercise of "authority" or "control" by the Government at the time of the shooting, since liability arose only from the initial failure to utilize ordinary care. The same is true here—the Marshal's purported inability to arrange for the continuous observation of the prisoner does not excuse the earlier breach of the duty to provide a reasonably safe place of confinement.<sup>2</sup>

2. The Government attempts to distinguish *Underwood* by implying that here its statutory responsibilities were somehow "delegated to the Sheriff and his deputies. Neither the statutes nor the case law sanctions such a "delegation." *Indian Towing Company v. United States*, *supra*; *United States v. Gavagan*, *supra*.



The Court also reasons that the negligence of the State authorities in failing to keep Logue under constant scrutiny cannot be attributed to the United States because the Nueces County jail was a "contractor" within the meaning of 18 U.S.C.A. § 2671. Of course I do not dispute the axiomatic proposition that ordinarily such a "contractor" is not an "employee" for whose negligence the Government is liable under the Act. *Emelwon, Inc. v. United States*, 5 Cir., 1968, 391 F.2d 9, cert. denied sub nom. *Florida v. Emelwon, Inc.*, 393 U.S. 841, 89 S.Ct. 119, 21 L.Ed.2d 111. However, here the plaintiffs rely primarily upon that portion of the Act defining "employees" as " \* \* \* persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States whether with or without compensation." 28 U.S.C.A. § 2671. Since under the contract arrangement State authorities perform all functions incidental to the confinement of Federal prisoners that would otherwise be performed by the United States Marshal, the theory is that the Marshal's office is a "federal agency" on behalf of which State jailers act "in an official capacity, temporarily \* \* \* in the service of the United States." In effect, the Nueces County Sheriff and his deputies become surrogate Marshals for purposes of Federal tort liability.

While passing no final judgment at this stage, I do point out that this argument was barely mentioned in the panel's opinion, much less refuted by it. The Government contends that a Marshal has no authority to appoint a State law enforcement officer to act on behalf of or in the service of the United States, yet under the literal wording of the statute the absence of such authority would appear to be irrelevant. Moreover, when the Government decides

that a particular individual should assume obligations and responsibilities virtually identical to those of a salaried Federal employee, there may very well be some persuasive basis for the suggestion that such an individual's breach of a specific statutory duty owed by the salaried employee to a specific class of persons should visit identical liability upon the United States. Obviously there is more than a subtle distinction between a "contractor" who breaches a duty of reasonable care owed to the world at large and a "contractor" who performs specific custodial functions that under a plain Congressional mandate would ordinarily entail a definite obligation of due care owed to a discrete (and particularly vulnerable) class of people. If only for the sake of uniformity and the avoidance of formalistic legal distinctions totally divorced from the realities of the situation, further consideration of the problem might inevitably lead to the conclusion that the Sheriff and his deputies were "employees" within the meaning of the Act, particularly in light of the principle that "the Government's liability is no longer restricted to circumstances in which government bodies have traditionally been responsible for misconduct of their employees. The Act extends to novel and unprecedented forms of liability as well." *United States v. Muniz*, 1963, 374 U.S. 150, 159, 83 S.Ct. 1850, \_\_\_, 10 L.Ed.2d 805, 813. As has long been recognized, "the Federal Tort Claims Act waives the Government's immunity from suit in sweeping language." *United States v. Yellow Cab Company*, 1951, 340 U.S. 543, 547, 71 S.Ct. 399, \_\_\_, 95 L.Ed. 523, 528.

Apart from the difficulties posed by this case in isolation, its implications within the broader context of modern-day prison administration are even more disturbing.

Overcrowding and substandard physical facilities inevitably have a progressively detrimental impact on the administrator's ability to insure the health, safety and welfare of those in his custody. Increasingly we are being forced to confront undeniable evidence that the inmates of many institutions routinely subject other prisoners to varieties of subhuman treatment that no citizen of a civilized nation, whatever his transgression against society, should be compelled to endure. That such outrages are inflicted upon those serving sentences following conviction is disgraceful. But when the victim charged with a Federal offense is merely confined temporarily in a State jail while awaiting transfer or release on bond, I hardly think we provide an acceptable answer when we tell him or his family that restitution for death or injury resulting from his custodian's culpable neglect is unavailable because the responsible official was wearing a State rather than a Federal badge. In such circumstances I cannot concede that despite the constable's blunder the Government must go free.

I dissent from the denial of rehearing en banc.